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# **AN ACT**

**TO PROVIDE**

**FOR THE GOVERNMENT**

**OF**

**THE SEVERAL TOWNS IN THIS TERRITORY,**

**AND**

**FOR THE REVISION**

**OF**

**COUNTY GOVERNMENT.**

**ENACTED AT MADISON, BY THE LEGISLATIVE ASSEMBLY,  
AT ITS ANNUAL SESSION OF 1840 & '41.**

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**PUBLISHED BY AUTHORITY.**

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**MADISON, W. T.,  
PRINTED BY CHARLES C. SHOLES.**

**1841.**





## ADVERTISEMENT.

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IN preparing this Act for publication, where a superfluous word has been found in the enrolled bill, it has been printed in the text, but in italics, and enclosed in a parenthesis, (*thus*). Where a word has been found necessary to sustain the sense of the context, or, where one word has been obviously mistaken for another, the word supposed to be proper has been supplied, but in brackets, [thus]; thus adopting a plan heretofore adopted in publishing the laws, for the sake of uniformity.

## CERTIFICATE.

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I hereby certify that the Act contained in this pamphlet, purporting to be an Act of the Legislative Assembly of the Territory of Wisconsin, is a true copy of the enrolled Act delivered to me by an officer of the Legislative Assembly, at the close of its last session, when it was enacted, and now on file in the office of the Secretary of the Territory.

HAZEN CHENEY.

---

TERRITORY OF WISCONSIN, } ss.  
DANE COUNTY,

*March 4th, 1841.*

Then the above named Hazen Cheney personally appeared and made oath that the above certificate, by him subscribed, is true, before me,

DAVID BRIGHAM,

*Justice of the Peace.*

# A STATUTE

## TO PRESCRIBE

### TOWNSHIP AND COUNTY GOVERNMENT.

*Be it enacted by the Council and House of Representatives of the Territory of Wisconsin :*

**AN ACT** to provide for the government of the several towns in this Territory, and for the revision of county government.

#### CHAPTER I.

§1. The several towns which have been or may hereafter be organized and established by law in the counties, which shall have determined by vote in favor of the adoption of this act, shall be governed by and subject to the provisions of this act ; and in case any of the said counties have not been subdivided into towns, then, and in that case, such county shall be an organized town for the purposes of this act. What towns to be governed by this act.

§2. The legal voters of the several organized counties in this Territory shall, at the next general election, vote for or against the adoption of the provisions of this act, as they may deem best ; and the clerks of the boards of county commissioners of such counties shall canvass such votes in the manner other votes are canvassed, and certify and return the same to the Legislative Assembly, on the first Monday of December then next. And if a majority of the electors, in any counties of this Territory, shall vote in favor of the adoption of this act, then the county so voting in favor of its adoption, shall be governed by, and subject to, the provisions of this act, on and after the first Tuesday of April, 1842. Voters when to adopt or reject.

§3. For the purpose of holding the first town meetings authorized by this act, the clerks of the boards of county commissioners of the several counties subject to the provisions of this When to take effect. First meetings in towns where held.

How called.

act, shall establish some public place in each town in such counties at which such town meetings shall be held, and the same shall be held on the first Tuesday of April, 1842; and the said clerk shall give at least fifteen days notice of the time and place, when and where, such town meeting shall be held in each town, by posting up three written notices in three of the most public places in each town, specifying the time and place of such meeting in each town; and it shall be the duty of the sheriff of said counties to post up said notices at least ten days previous to the said first Tuesday of April.

When to organize.

§4. At the time and place of holding such town meeting, the electors present shall, between the hours of nine and eleven of the clock, A. M., organize such meeting by choosing a moderator and clerk to conduct such meeting, and thereafter such meeting shall be in all respects conducted in the manner hereinafter provided for conducting annual town meetings.

## CHAPTER II.

### PART 1st.

#### *General powers and duties of towns, as bodies corporate.*

Power of towns as bodies corporate.

§1. Every town now established, or which may hereafter be established by the Legislative Assembly of this Territory, shall be a body corporate; and shall have capacity—

- 1st. To sue and be sued, in the manner prescribed by law;
- 2nd. To hold real estate for the public uses of the inhabitants and to convey the same, either by a vote of the inhabitants or by a deed of their committee or agents;
- 3d. To hold personal estate for the public uses of its inhabitants, and to alienate and dispose of the same by vote or otherwise;

4th. To hold real and personal estate, in trust, for the support of schools, and for the promotion of education within the limits of the town;

5th. To make such contracts as shall be necessary to the exercise of its corporate or administrative powers; and

6th. To make such orders for the disposition, regulation or use of its corporate property, as may be deemed conducive to the interests of its inhabitants.

§2. No town shall possess or exercise any corporate powers Limitations. except such as are enumerated in this chapter, or be specially given by law, or shall be necessary to the exercise of the powers so enumerated or given.

§3. All acts or proceedings, by or against a town, in its corporate capacity, shall be in the name of such towns, but every conveyance of lands within the limits of such town, made in any manner for the use or benefit of its inhabitants, shall have the same effect as if made to the town by name. In what name to act.

## PART 2d.

### *Of the effects of the division of a town, on its corporate rights and liabilities.*

§1. When a town seized of lands shall be divided into two or more towns, the supervisors of the several towns constituted by such division, shall meet as soon as may be, after the first town meeting subsequently held in such towns, and when so met, shall have power to make such agreement, concerning the disposition to be made of such town lands and the apportionment of the proceeds, as they shall think equitable, and to take all measures and execute all conveyances which may be necessary to carry such an agreement into effect. Town lands how to be disposed of on division of town.

§2. When any such town shall be altered in its limits by the annexing of a part of its territory to another town or towns, the supervisors of the town from which such territory shall be taken, and of the town or towns to which the same shall be annexed, shall, as soon as may be after such alteration, meet for the purpose and possess the powers provided in the last preceding section. Ib. when part of town is annexed to another.

§3. If no agreement for the disposition of such lands shall be made by the supervisors within six months after such division or alteration, then the supervisors of each town, in which any portion of said lands shall lie, shall proceed as soon as may be to sell and convey such part of said lands as shall be included within the limits of said town, as fixed by the division or alteration; and the proceeds arising from such sale shall be apportioned between the several towns interested therein, by the supervisors of all the towns, according to the amount of taxable property in the town so divided or altered, as the same existed immediate- If no agreement be made, land to be sold.

ly before such division or alteration, to be ascertained by the last assessment list of such town.

Personal property how apportioned.

§4. When a town possessed of, or entitled to money, rights and credits, or other personal estate, shall be so divided or altered, such personal estate, including monies belonging to the towns in the hands of town officers, shall be apportioned between the towns interested therein, by the supervisors of such towns, (who shall meet for that purpose as soon as may be after the first town meeting subsequently held in such towns,) according to the rule of apportionment above described.

Meetings under this chapter, how called.

§5. Whenever a meeting of the supervisors of two or more towns shall be required, in order to carry into effect the provisions of "Part 2d" of this Chapter, such meeting may be called by either of said supervisors; but the supervisors calling the same, shall give at least six days notice in writing to all the other supervisors, of the time and place at which such meeting is to be held.

Cemeteries excepted.

§6. The preceding section shall, however, not apply to any cemetery or burial ground, but the same shall belong to the town within which it may be situated after a division shall have been made.

Debts to be apportioned.

§7. Debts, owing by a town so divided or altered, shall be apportioned in the same manner as the personal property of such town, and such town shall thereafter be charged with its share of such debts, according to such apportionment.

### CHAPTER III.

#### OF TOWN MEETINGS, AND THE TIME AND PURPOSES AND MANNER OF HOLDING THEM.

##### PART 1st.

##### *Of annual and special town meetings.*

Annual town meetings when held.

§1. The citizens of the several towns in this Territory, qualified by law to vote for elective officers, shall annually assemble and hold town meetings in their respective towns, on the first Tuesday in April next, at such place in such town as the electors thereof, at their annual town meetings, shall from time to time appoint; which meeting shall be opened between the hours of nine and eleven, A. M.

§2. There shall be chosen at the annual town meetings in each town, three supervisors, one of whom shall be designated upon the ballots as chairman of the board, who shall also be overseers of the poor; one town clerk; from one to three assessors; one treasurer; one collector; three commissioners of highways; three commissioners of common schools, who shall also be school inspectors; from one to three constables, the number to be determined by the town; one sealer of weights and measures; and as many overseers of highways as there are road district in the town, and three or more fence viewers.

Officers to be chosen.

§3. The electors of each town shall have power at their annual town meetings—

Powers of annual town meetings.

1st. To determine what number of constables and assessors shall be chosen in such towns for the ensuing year;

2d. To elect such town officers as may be required to be chosen;

3d. To raise such sum of money for the support of schools for the ensuing year as they may deem necessary, but not exceeding one half of one per cent.;

4th. To direct the institution or defence of suits at law or in equity, in all controversies between such town and corporations, individuals, or other towns, and to raise money for the prosecution or defence of such suits;

5th. To take measures and give directions for the exercise of their corporate powers;

6th. To establish the compensation of all town officers whose compensation is not established by law;

7th. To make from time to time such prudential rules and regulations as they may think proper for the better improvement of all lands owned by such town in its corporate capacity—whether commons or otherwise;

8th. To make the like rules and regulations for ascertaining the sufficiency of all fences in such town; for determining the time and manner in which cattle, horses, sheep or swine shall be permitted to run at large on highways, and for impounding cattle;

9th. To impose such penalties on persons offending against any rule or regulation by such town, except such as relate to



the keeping and maintaining of fences, as they may think proper—not exceeding ten dollars for each offence; and

10th. To apply such penalties, when recovered, in such manner as they may deem most conducive to the interests of said town.

Additional powers.

§5. In addition to the powers above specified, the electors of each town at their annual town meeting, shall have power to raise such sum or sums of money as are necessary for the support of the poor for the ensuing year, and to defray any necessary charges against the overseers of the poor of such town; and, also, for building and repairing of highways and bridges in such town: they may also have power to raise money to meet any necessary contingent expenses or charges that may arise against said town.

Special town meetings.

§6. Special town meetings may be held to supply vacancies in the several cases hereinafter provided for. They may also be held whenever ten or more electors of such town shall, by application in writing, signed by them, and addressed to the town clerk, require a special town meeting to be called for the raising of money for the support of schools, or other necessary town expenses, whenever a proposition to that effect shall not have been acted upon at the annual town meeting; or for the purpose of deliberating in regard to the institution or defence of suits, or of raising money for the same; or for any other purpose arising from any contingency happening to such town, and requiring the raising of money subsequently to the annual town meeting: *provided, however*, that no town clerk shall call such meeting for the aforesaid purposes without the approbation of two or more of the supervisors.

Notices.

§7. No previous notice need be given for the annual town meetings; but the town clerk shall, at least eight days before the holding of any special town meetings, cause notice thereof, under his hand, to be posted up at three or more of the most public places in the town; which notices shall specify the time, place and purposes of such meeting.

Orders, &c.

§8. Every order or direction, and all rules and regulations, made by any town meeting, shall remain in force until the same shall be altered or repealed at some subsequent meeting.

Civil process.

§9. Whenever a town meeting shall be held in any town, no

civil process shall be served, except in cases of attachment of personal property, in such town on any elector entitled to vote therein, on any day on which said town meeting shall be held. And if any such process be made returnable on such day, it shall be continued to some subsequent day.

## PART 2d.

### *Of the mode of conducting town meetings.*

§1. It shall be the duty of the town clerk, last before elected, Town meeting, how opened. if present, to call the town meeting to order, and there publicly call for, receive, assort, count and declare, the votes for a chairman or moderator, to conduct the meeting; but if from sickness, or any cause, the clerk shall not be present at such meeting, it shall be the duty of some one of the supervisors to call the meeting to order, and to call for the election of a chairman or moderator of such meeting, as before provided.

§2. If the town clerk be present, he shall act as the clerk of Clerk of meeting. the town meeting, and shall keep faithful minutes of the proceedings; in which he shall enter at length, every order or direction, and all rules and regulations made by such meeting. But if the town clerk be absent, then such person as shall be chosen by the electors present shall act as clerk of such meeting.

§3. If any person, offering to vote at any election, or upon Challenges. any question arising at such town meeting, and whose right of voting shall be challenged by any elector, it shall be the duty of the presiding officer before receiving such vote, to administer to such person so claiming the right of voting, the oath prescribed by law; and no person, whose vote shall be so received, shall be again challenged upon any other question arising at the same town meeting.

§4. Town meetings shall be kept open in the day time only, Meetings how long kept open. between the rising and setting of the sun; and if necessary, may be held two days successively, but no longer.

§5. The minutes of the proceedings of every town meeting, Minutes of proceedings. subscribed by the clerk and chairman of such meeting, shall be filed in the office of the town clerk within two days after such meeting.

## CHAPTER IV.

OF THE ELECTION AND QUALIFICATION OF TOWN OFFICERS AND ~~THE~~  
TENURE OF THEIR OFFICES.

## PART 1st.

*Of the election of town officers.*Proclamations  
of

§1. Before the electors shall proceed to elect any town officers, proclamation shall be made of the opening of the poll; and proclamation shall in like manner be made of each adjournment, and of the opening and closing of the polls, until the election be ended.

Town officers,  
how chosen.

§2. All town officers shall be chosen, either—

1st. By ballot;

2d. By ayes and noes, or

3d. By rising or dividing of the electors, as the meeting may determine.

Contents of bal-  
lot.

§3. When the electors vote by ballot, all the officers voted for shall be named in one ballot, and the offices to which such persons are intended to be chosen, designated; and said ballots shall be delivered to the presiding officer so folded as to conceal the contents of the same.

Names checked.

§4. When the election is by ballot, the votes shall be so taken by the presiding officer as that the clerk can mark or check the names of each voter upon the list as his vote shall be given in.

Canvass of the  
votes.

§5. At the close of every election by ballot, the chairman or moderator, with the assistance of the clerk, shall proceed publicly to canvass the votes; which canvass, when commenced, shall be continued without adjournment or intermission, until the same be completed.

Th. statement of  
result.

§6. Before the ballots are opened, they shall be counted and compared with the checks upon the lists of voters.

Notice to per-  
sons elected.

§7. The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting, in the minutes of its proceedings, to be kept by him, as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of such election to every person whose name shall have been checked upon the poll list as a voter.

Who eligible.

§8. The town clerk, within ten days thereafter, shall transmit to each person elected to any town office, whose name shall not

have been thus checked upon the poll list, as a voter, a notice of his election.

## PART 2d.

### *Of the qualification of town officers and the tenure of their offices.*

§1. No person shall be eligible to any town office unless he **Who eligible.** shall be an elector of the town for which he shall be chosen.

§2. Every person chosen or appointed to the office of a super- **Oath of office**  
visor, town clerk, assessor, treasurer, collector, commissioner of **of certain offi-**  
highways, or constable, before he enters upon the duties of his **cers.**  
office, and within ten days after he shall be notified of his election,  
or appointment, shall take and subscribe before the town clerk, or  
some person authorized to administer oaths, an oath to support  
the Constitution of the United States, and faithfully and impartially  
to discharge the duties of his office, (naming the same,) and the  
person before whom such oath shall be taken, shall certify, in  
writing, the day and year the same was taken, and shall deliver  
such certificate to the person by whom the oath was made.

§3. Such person, with ten days thereafter, and before entering **Certificate of**  
upon the duties of his office, shall cause such certificate to be filed **same filed.**  
in the office of the town clerk.

§4. If any person, chosen or appointed to either of the town **Neglect to take**  
offices above enumerated, shall not take and subscribe and file the **oath.**  
oath, as above required, such neglect may be considered a refusal  
to serve in such office.

§5. All other town officers, of whom no oath is required by **Neglect to de-**  
law, shall be deemed as accepting the offices to which they are **cline.**  
respectively chosen, unless they shall decline the same to the town  
clerk, in writing, within ten days after being notified as aforesaid.

§6. If any town officer, who is required by law to take the **Penalty for**  
oath of office, shall enter upon the duties of his office before he **acting without**  
shall have taken such oath, he shall forfeit to the town the sum of **oath.**  
fifty dollars.

§7. Town officers shall hold their offices for one year, and **Tenure of of-**  
until others are chosen and qualified. **fice.**

§8. Every person chosen or appointed to the office of collector, **Collector to**  
before he enters on the duties of his office, and within eight days **give bond.**  
after he receives notice of the amount of taxes to be collected by  
him, shall execute to the treasurer of the town, and lodge with

him a bond, with three or more sureties, to be approved by the treasurer, in double the amount of taxes to be collected, conditioned for the faithful execution of his duties as such collector: and such bond so filed shall be a lien on all the real estate held jointly and severally by the collector, within the county at the time of the filing thereof; and shall continue to be such lien till its conditions, together with all costs and charges which may accrue by the prosecution thereof, shall be fully satisfied.

Constable to  
take oath and  
give bond.

§9. Every person chosen to the office of constable, before he enters upon the duties of his office, and within eight days after he shall be notified of his election or appointment, shall take and subscribe an oath of office as by this act provided, and shall also give bond with sureties in the penal sum of five hundred dollars, to be filed with and approved by the town clerk, conditioned for the faithful discharge of the duties of his office.

Treasurer to  
give bond.

§10. Every person chosen treasurer of any town, shall, before entering upon the duties of his office, and within ten days after he shall have been notified of the same as before provided, give bond to the supervisors, with sufficient sureties to be approved by them, in double the amount of the sums voted to be raised at the annual town meeting, and conditioned for the faithful discharge of his duties; which bond, so approved, shall be filed in the town clerk's office before he shall enter upon the duties of his office.

Time when to  
take oath and  
give bond.

§11. If any person, chosen or appointed to any town office, of whom an oath or bond is required, shall not file the same within the time prescribed by law, such neglect may [be] deemed a refusal to serve; but if such officer shall file the same before he shall actually enter upon the duties of his office, the same shall be deemed valid in law.

Penalty for re-  
fusing to serve,  
&c.

§12. No person shall be compelled to serve in any one town office more than one year in succession; *provided*, he shall refuse so to do within the time required by law. But every person, being able in person to discharge the duties of an office, shall, when legally chosen, unless legally excused from the same, serve in the same for one year, or shall be liable to a fine of not less than ten nor more than fifty dollars, to be recovered by the treasurer for the benefit of the town.

## PART 3d.

*Of vacancies in town offices and the mode of supplying them.*

§1. If any town shall neglect at its annual meeting to choose its proper officers, or either of them, it shall be lawful for the supervisors, by warrant under their hand and seals, to appoint such officers, and the persons so appointed shall hold their respective offices until others are chosen or appointed in their places, and shall have the same powers, and be subject to the same duties and penalties as if they had been duly chosen by the electors.

If town neglect to choose, supervisors to appoint.

§2. The supervisors, after making such appointment, shall forthwith file such warrant in the office of the town clerk, who shall notify such persons of their appointment.

Appointment where filed.

§3. The board of supervisors of any town may, for sufficient cause shown to them, accept the resignation of any town officer of their town; and whenever they shall accept any such resignation, they shall forthwith give notice thereof to the town clerk, which shall be filed in his office.

Resignation of town officers.

§4. If any person, chosen to the office of supervisor, assessor, commissioner of highways, shall refuse to serve, or shall die, or move out of the town, or in any way become incapable of discharging the duties of his office, the town clerk shall, within ten days after the happening of such vacancy, call a special town meeting for the purpose of supplying the same.

Special town meetings to fill vacancies.

§5. Vacancies in all town offices, except those named in the last section, shall be supplied by the board of supervisors, in the manner provided for in the first section of "part 3d," of this chapter.

Other vacancies.

## CHAPTER V.

## OF THE GENERAL POWERS AND DUTIES OF CERTAIN TOWN OFFICERS.

## PART 1st.

*Of the powers and duties of the chairman or moderator of town meetings.*

§1. The chairman or moderator shall preside in the meetings for which he is chosen, and shall regulate the business and proceedings thereof. He shall decide all questions of order, and shall make public declaration of all votes passed. When any vote so declared by him, shall, immediately upon such declaration, be

Powers and duties of moderator.

questioned by one or more of the electors present, he shall make the vote certain by causing the voters to rise and be counted, or in such other way as the meeting shall have directed.

**Penalty for disturbing meeting.**

§2. If any person shall conduct himself in a disorderly manner, and after notice from the chairman, shall persist therein, the chairman may order him to withdraw from the meeting; and on his refusal, may order the constable, or any other person, to take him from the meeting and confine him in some convenient place until the meeting shall be adjourned; and the person so refusing to withdraw, shall, for such offence, further forfeit a sum not exceeding ten dollars to the use of the town.

**Penalty for examining vote before poll is closed.**

§3. If any chairman or presiding officer shall, at any town meeting, before the poll is closed, and without the consent of the voter, read, or examine, or permit any person to read or examine the names written on such voter's ballot, with a view to ascertain the candidate voted for by him, such chairman, or presiding officer, shall forfeit to the use of the town the sum of fifty dollars.

**Moderator to take oath.**

§4. Before the chairman or moderator of any town meeting shall enter upon the duties of his office, he shall take an oath, faithfully and impartially to discharge the duties of such office; which oath may be administered by the town clerk or other proper officer.

## PART 2d.

### *Of the duties of town clerk.*

**Shall record proceedings.**

§1. The town clerk shall transcribe in the book of records of his town the minutes of the proceedings of every town meeting held therein.

**Shall administer oaths of office.**

§2. The town clerk shall administer the oaths of office to all town officers, who shall appear before him for that purpose, and he shall keep a record thereof; and he shall also file in his office certificates of the oaths of all such town officers as shall have taken the same before some person authorized to administer oaths.

**Shall make certificate of moneys raised.**

§3. Immediately after the annual town meeting, the town clerk shall make out a certificate of the amounts of moneys raised for the support of schools, to the school commissioners; and of all sums raised for highways and bridges, to the commissioners of highways; and of all sums raised for the support of paupers, and for incidental expenses of the towns, to the supervisors thereof.

§4. The town clerk, immediately after the qualifying of any constable, chosen or appointed, in their respective towns, shall return to the clerks of the district court of their respective counties the names of such constables. Names of constables.

§5. The town clerk shall deliver to the chairman of the board of supervisors, before the annual meeting of the county board, in each year, certified copies of all votes for raising money, as well as copies of any other records, which may require the action of the county board of supervisors at such meeting. Copies of records delivered to supervisors.

### PART 3d.

#### *Of the duties of supervisors.*

§1. It shall be the duty of the person chosen chairman of the board of supervisors, to attend the annual meeting of the board of supervisors of the county, and every adjourned or special meeting of such board, of which he shall have notice. Chairman to attend board of county supervisors.

§2. The supervisors shall have charge of and provide for the town poor, agreeably to the provisions of law; and they shall have power to draw their orders upon the town treasury for all such sums as may be necessary, not exceeding the amount raised for that purpose at the annual or some special town meeting. Have charge of the poor.

§3. The supervisors shall have charge of all such affairs of the town as are not made the duty of other town officers; and shall have power to draw their orders upon the treasury for the disbursement of such sums as may be necessary for defraying the incidental expenses of the town; they shall, however, keep a full and accurate account of all expenditures by them so made, and of the amount so drawn. General powers of supervisors.

§4. The supervisors shall, annually on the Monday preceding the annual town meeting, meet at the place of holding meetings, to settle with the treasurer, and audit the accounts of all disbursing officers, and make a detailed report of the fiscal concerns of the town to the annual town meeting; which shall also be accompanied with an estimate of the current expenses of such town, for the support of paupers, and other incidental expenditures for the ensuing year; which report and estimates shall be referred to a committee of such town, whose duty it shall be to examine the same with reference to the supervisors' accounts and Settle with treasurer and make report.



doings, and report the same for acceptance or otherwise at said meeting.

Duty of chairman.

§5. The chairman shall annually lay before the board of county supervisors attested copies of all records which shall require to be acted upon by that board.

Inspectors of elections.

§6. The board of supervisors of each town, together with the town clerk, shall constitute a board of inspectors of elections, and shall discharge their duties as such according to law.

Poll list, how made.

§7. It shall be the duty of the supervisors and clerk of each town, at least two weeks before the day of the annual town meeting, to make out and post up at the place of holding such meeting, a list of the legal voters of such town, together with a notice that they will be in session at such place, at some hour on the day of election, previous to the opening of said meeting, for the purpose of perfecting such list of voters; and it shall also be the duty of such board to post up a like list and notice two weeks previous to the general election in September, and that such list, when so perfected, shall be known by the name of "Poll List" of such election, and shall be preserved on file in the clerk's office.

When but one town in a county.

§8. In case there shall be only one organized town in any county subject to the provisions of this act, then and in that case the board of town supervisors shall constitute a board of county supervisors for such county.

#### PART 4th.

##### *Of the duties of town treasurer.*

Have charge of money.

§1. The town treasurer shall receive and take charge of all sums of money belonging to his town, and pay over and account for the same, according to the order of such town, or the officers thereof duly authorized in that behalf, and shall give bonds with sureties to the satisfaction of the supervisors, as is provided for in chapter 4, part 2, and section 10, of this act.

May sue, &c.

§2. The treasurers of towns may, in their own names and official capacities, prosecute any suit upon bonds, notes, or other securities, given to them or their predecessors in office; and may, also, in like manner, sue for and recover all such fines and penalties as may be forfeited to their respective towns, for the violation of any rule or regulation adopted by such town, or arising by the penalties of law: *provided, however*, that the treasurer shall institute

no such suit without the approbation of two or more of the supervisors, or by direction of such town in town meeting.

§3. The treasurer shall have power, in like manner, to prosecute for trespasses committed on any public building or enclosure, belonging to his town; and when any public building is owned partly by the town and partly by the county, such prosecution may be instituted, either by the treasurer of the town or the county, whichever shall first prosecute therefor.

§4. Every town treasurer shall keep a true account of all moneys by him received, and the manner in which the same is disbursed, in a book for that purpose, and exhibit the same, together with his vouchers, annually to the board of supervisors for adjustment; and shall annually deliver all books and property belonging to his town, and the balance of all moneys, so found due, to his successor in office, on demand, after such successor shall have given bonds as the law requires. Keep account of receipts and disbursements.

#### PART 5th.

##### *Of the powers and duties of constables.*

§1. The constable shall have power to serve all legal processes, duly issued, and make return thereof as required by law: *provided*, the same shall be done within his own county. May serve legal process.

§2. Every person chosen to the office of constable, shall, if present at the meeting when so chosen, be considered as accepting the same, unless he shall publicly refuse so to do. Considered as accepting, unless.

§3. Any constable may serve any civil process, or any warrant or other process in criminal cases, in which his town, or school district, is a party or interested; and may serve any civil or legal process contemplated by the 1st and 3d sections of part 5th of this act, if the same shall be within his county. Process where town is party.

#### CHAPTER VI.

##### *Of legal proceedings in favor of and against towns.*

§1. Whenever any controversy or cause of action shall exist between any towns in this Territory, or between any town and an individual or corporation, such proceeding shall be had, either at law or in equity, for the purpose of trying and finally settling such controversy, and the same shall be conducted in like manner, and Proceedings to try controversies between towns, &c.

the judgment rendered therein shall have like effect, as in other suits or proceedings of a similar kind between individuals and corporations.

Town how to sue.

§2. In all suits and proceedings the town shall sue or be sued by its name, except: when town officers shall be authorized by law to sue in their name of office for the benefit of such town.

Process to be served on supervisors.

§3. In all legal proceedings against towns by name, the first process, and all other proceedings, required to be served, shall be served upon the supervisors of the town, and service upon any one of their number shall be deemed sufficient service; and whenever any such suit or proceedings shall be commenced, it shall be the duty of the chairman, or some one of them to attend to the defence thereof, and to lay before the electors of the town, at the first town meeting thereafter, a full statement of such suit or proceedings, for their direction in regard to the defence thereof.

Inhabitants when competent witnesses and jurors.

§4. In the trial of every action, in which a town shall be a party, or be interested, the electors and inhabitants of such town shall be competent witnesses and jurors, except that in suits and proceedings by and against towns, no inhabitant of either town shall be a juror.

Actions in favor of a town may be brought before justice.

§5. Any action in favor of a town, which, if brought by an individual, could be prosecuted before a justice of the peace, may be prosecuted by such town, in like manner, before a justice of the peace; but no action to recover a penalty given to a town, shall be brought before a justice of the peace residing within the town, for the benefit of which the same is prosecuted; but all such actions may be brought before any one of the justices residing in any other town in the same county.

Costs, judgments when town charge.

§6. In all suits or proceeding prosecuted by or against towns, or by or against town officers in their name of office, costs shall be recoverable, as in like cases between individuals. Judgments recovered against towns or against town officers, in actions prosecuted by or against them in their name of office shall be a town charge; and when levied and collected shall be paid to the person to whom the same shall have been adjudged.

## CHAPTER VII.

### *Miscellaneous provisions of a general nature.*

§1. The following may be deemed town charges : Town charges.

1st. The compensation of town officers for services rendered in their respective towns ;

2d. The contingent expenses necessarily incurred for the use and benefit of the towns :

3d. Moneys authorized to be raised by the vote of a town meeting for any town purpose ; and,

4th. Every sum directed by law to be raised for any town purpose.

§2. The moneys necessary to defray the town charges of each town, shall be laid upon the taxable property in the town in the manner prescribed by law. Moneys to defray town charges how raised.

§3. Whenever the term of office of any town officer shall expire, and another person be elected or appointed to such office, such person, immediately after qualifying for such office, as the law requires, shall demand of his predecessor, all records, books and papers, or any other property appertaining to such office, belonging to such town ; and every person refusing so to deliver such records, books, papers or other property, shall be liable to a fine of not less than fifty nor more than five hundred dollars, to be recovered for the use of the town. Penalty for refusing to deliver records.

## CHAPTER VIII.

### PART 1st.

#### *Of powers and duties of commissioners of common schools.*

§1. It shall be the duty of the commissioners of common schools, in each town— Duties of commissioners.

1st. To divide their town into a convenient number of school districts, and to regulate and alter such districts, as is hereinafter provided ;

2d. To set off by itself any neighborhood in their town, adjoining any other state, where it has been usual or shall be

found convenient for such neighborhood to send their children to school in such adjoining state;

3d. To describe the number of school districts and to deliver the description and number thereof in writing, together with a map of such school district, to the town clerk immediately after the formation or alteration thereof;

4th. To deliver to such town clerks a description of each neighborhood adjoining to any other state, set off by itself;

5th. To apportion the school moneys raised by their respective towns in each year, among the several school districts, parts of districts, and neighborhoods separately set off, within their towns, in proportion to the number of children residing in each between the ages of four and sixteen years, inclusive, as the same shall appear from the last annual reports of their respective trustees; but in apportioning the same for the first time, it shall be done upon a report of the number of children of these ages, ascertained by themselves.

List of districts  
kept by com-  
missioners.

§2. The school commissioners shall keep a book, in which shall be entered each school district, the same being entered in numerical order, in the form of an account current with the town; and after making such apportionment as is provided for in the last section, they shall credit to each district their proportion of the money raised for the support of schools,

How to sue for  
penalties.

§3. The commissioners shall have power to sue for and collect in their name of office, all penalties and forfeitures imposed in this "part 1st" of this act, which shall be incurred by any officer, or inhabitant of their town, or of any particular district; and after deducting their costs and expenses, they shall pay the same to the treasurer for the support of schools, and which shall be apportioned among the districts of the town and expended as before provided.

Districts form-  
ed from several  
towns.

§4. Whenever it shall be necessary or convenient to form a district out of two or more adjoining towns, and whether the same may be in one county, or in separate adjoining counties, the commissioners from each of such adjoining towns, or the major part of them, may form, regulate and alter such districts, and perform all the duties towards the same that school commissioners can perform towards school districts.

§5. The school commissioners shall not draw their orders upon the treasurer for any money for the payment of any teacher who shall not have been approbated to teach a school as is hereinafter provided. And it is hereby provided, that in case money shall be so drawn, for the payment of such unlicensed teacher, the school commissioners, or such of them as shall draw an order for the same, shall be personally liable to an action of damages for the recovery of the same, together with fifty per centum in addition to the sum so drawn, to be recovered by an action of debt, for the benefit of such district, and recoverable by an action brought by the trustees of such district.

Liability of commissioner for paying teacher not approbated.

§6. If after the annual reports from the districts shall have been received, and before the apportionment of the school moneys shall have been made by the commissioners, a district shall be altered, or a new district formed in the town, so as to render an apportionment, founded solely on the annual report, unjust, as between two or more districts of the town, the commissioners shall make an apportionment among such districts, according to the number of children in each of the ages before mentioned, ascertaining that number by the best evidence within their power.

Appropriation to district altered after annual report.

§7. The school commissioners shall meet annually, on the third Monday in April, at the town clerk's office in their respective towns, for the purpose of apportioning the moneys raised for the support of schools for the ensuing year, among the several school districts; and they are hereby prohibited from granting any portion of such moneys to any school district, whose trustees shall not have made the necessary returns to the clerk's office as is provided by law, and all such districts shall be excluded in their apportionment of the money.

Annual meeting of commissioners.

§8. It shall be the duty of the commissioners of common schools in each town, before the first day of November, in each year, to make and transmit to the Secretary of the Territory, a report of the schools in their respective towns, stating—

Annual report of same.

1st. The whole number of school districts in their respective towns;

2d. The whole number of scholars, male and female;

3d. The whole number of teachers, male and female ;

4th. The length of time which all the schools have been kept, stating what portion by male, and what by female teachers ;

5th. The amount of money raised by tax for school purposes, and the amount by special provision or subscription, showing the total amount ;

6th. The whole amount of money paid for school purposes, distinguishing between the amount paid to teachers, and the amount paid for board, fuel, and other incidental expenses, according to the following form :

[illegible]

(Signed)

**A. B.**

**C. D.**

**E. F., Com. of Common**

Attest, *Schools for the Town of* *County of*

**G. H., Clerk.**

**Penalty for neglect.** §9. If the commissioners of any town shall fail to make return to the secretary, as provided in the preceding section, they shall severally forfeit to the use of the town, such sums as shall be paid them for their services as commissioners, together with fifty per centum damages, and costs of prosecution; to be recovered by an action of debt by the town treasurer, for the use of schools.

**Powers. &c.** §10. The commissioners of common schools, in each town, shall have the powers and privileges of a corporation, so far as to enable them to take and hold any property transferred to them for the use of common schools in such town, and appropriate the same according to law.

**§11.** The town clerk, by right of office, shall be the clerk of the board of commissioners of common schools in each town, and it shall be his duty— Clerk of commissioners, his duty.

1st. To receive all the reports made to the commissioners by the trustees of school districts, and all the books and papers belonging to the commissioners, and to file the same;

2d. To attend all the meetings of the commissioners, and to prepare, under their direction, all their reports, estimates and apportionments of school money, to record the same and their proceedings in a book to be kept for that purpose; and, generally, to do and execute all such things as belong to his office and may be required of him by the commissioners.

#### PART 2d.

*Of powers and duties of school commissioners, as inspectors of common schools.*

**§1.** The commissioners of common schools, in each town, or any two of them, at a meeting for that purpose, shall examine all persons offering themselves as candidates for teachers of common schools in such town. Shall meet to examine teachers.

**§2.** In making such examination, it shall be the duty of the commissioners to ascertain the qualifications of the candidate in respect to moral character, learning and ability. Qualifications of teacher.

**§3.** If the commissioners shall be satisfied in respect to the qualifications of the candidate, they shall deliver to the person so examined a certificate of their approbation accordingly. When to grant certificate.

**§4.** The commissioners may annul such certificate, given by them or their predecessors in office, when they shall think proper, giving at least ten days notice in writing to the teacher holding it, and to the trustees of the district in which such teacher shall be employed. Certificate, when annul'd.

**§5.** The commissioners, whenever they shall deem it necessary, may require a re-examination of all or any of the teachers in their towns, for the purpose of ascertaining their qualifications to continue as teachers. Re-examination of teachers.



Commissioners shall visit schools.

§6. It shall be the duty of the commissioners to visit all such common schools within their towns, as shall be organized according to law, at least once in six months, and oftener if they shall deem it necessary.

Same.

§7. At such visitation, the commissioners shall examine into the state and condition of such schools, both as respects the progress of the scholars in learning and the good order of the schools and may give their advice and direction to the trustees and teachers of such schools, as to the government thereof, and the course of studies to be pursued therein.

### PART 3d.

#### *Of the powers and duties of school districts.*

Commissioners to give notice.

§1. Whenever any school district shall be formed in any town by the commissioners of common schools, it shall be the duty of some one or more of them, within twenty days thereafter, to prepare a notice, in writing, naming such district, and appointing a time and place for the first district meeting, and to deliver such notice to an elector of such district.

Notice for first meeting.

§2. It shall be the duty of such elector to notify every other person of the district qualified to vote at the district meetings, by reading the notice, or stating the substance thereof, to such person; or, in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days prior to the time of the meeting.

District to prescribe manner of notice.

§3. All district school meetings shall be called in the manner prescribed by the two preceding sections, till the school district, at some legal meeting, shall prescribe the manner in which future meetings may be notified.

Penalty for not serving notice.

§4. Every legal voter, to whom a notice of a district meeting shall have been properly delivered for service, who shall neglect or refuse to serve the same, as before provided, shall, for every such offence, forfeit the sum of five dollars for the support of schools in such district.

§5. No person shall vote at any school district meeting, unless <sup>Qualifications of voters.</sup> he shall be a freeholder in the town where he resides, or shall have been assessed the same or preceding year to pay taxes therein, or shall possess personal property over and above such as is exempt from execution, to the amount of fifty dollars, liable to taxation in the district; and every person not so qualified, who shall vote at any such meeting, shall, for every such offence, forfeit the sum of ten dollars.

§6. The inhabitants so entitled to vote, when so assembled at <sup>Powers of district meeting.</sup> each meeting, or when lawfully assembled at any other district meeting, shall have power, by a majority of those present—

1st. To appoint a moderator for the time being;

2d. To adjourn from time to time, as occasion may require;

3d. To choose a district clerk, three trustees, and one district collector, at their first meeting, and as often as such offices become vacant;

4th. To designate a site for the district school house;

5th. To levy such tax upon the taxable property of the district as the meeting shall deem sufficient to purchase or lease a suitable site for a school house, and to build, repair, hire or purchase such school house, and to furnish the same with the necessary fuel and appendages; and

6th. To repeal, alter and modify their proceedings at any time, as occasion may require.

§7. Each school district in any town shall hold its annual <sup>Annual meeting.</sup> meeting on the first Monday of October, in each year; and at its first annual meeting shall vote in what manner future district meetings shall be notified.

§8. A special meeting may be held in any district, whenever <sup>Special meeting.</sup> notified in such manner as the district shall vote; and the proceedings of no district meeting, annual or special, shall be held illegal for want of due notice to all persons qualified to vote thereat: *provided*, that such meeting was notified agreeably to such vote.

§9. No tax to be voted by a district meeting for building, <sup>Limitation of</sup> hiring or purchasing a school house, shall exceed the sum of two <sup>tax.</sup>

hundred dollars, unless the commissioners of common schools of such town shall certify in writing that, in their opinion, a larger sum ought to be raised, and shall certify the same; in which case, a sum, not exceeding the sum so certified, shall be raised.

Tax how assessed.

§10. All sums of money raised by any school district, for the purposes provided in the preceding sections, shall be assessed upon the last valuation of property in such district, as made by the assessors of the town.

Powers of districts, &c.

§11. Whenever school districts are formed, composed of persons residing in different towns, whether both of such towns are in the same county or not, such district, when legally organized, shall have the same powers, for all purposes, which school districts generally possess by law.

Site of school house, how changed.

§12. Whenever a school house shall have been built or purchased for a district, the site of such school house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered, except by a vote of two thirds of the voters of such district.

Term of office of clerk, &c.

§13. The clerk, trustees and collector of such school district, shall hold their respective offices until the annual meeting of such district, next following the time of their appointment, or until others are chosen.

Penalty for not performing duties of office.

§14. Any person duly appointed or chosen to any such office, who, without sufficient cause, shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of said office, shall forfeit the sum of ten dollars.

Powers, &c. of district clerk.

§15. It shall be the duty of the clerk of each school district—

1st. To record the proceedings of his district in a book to be kept for that purpose by the district;

2d. To give notice of the time and place for holding special district meetings, in such manner as shall be prescribed by vote of such districts; to keep and preserve all records, books and papers, belonging to his office, and to deliver the same to his successor in office on demand.

§16. It shall be the duty of the trustees of every school district—and they shall have the power—

1st. To call special meetings of the inhabitants of such districts, whenever they shall deem it necessary and proper;

2d. To make out a tax list of their district, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, together with a list of all taxable property within such district, and the amount of tax payable by each inhabitant; and upon such property, set opposite the name of such owner, and of such property;

3d. To annex to such list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned, with five cents on each dollar thereof for his fees;

4th. To purchase or lease a site for the district school house, as designated by a vote of each district; and to build, hire or purchase, keep in repair, and furnish such school house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes;

5th. To have the custody and safe keeping of the school house and furniture;

6th. Contract with and employ all teachers in the district;

7th. To pay the wages of such teachers out of the moneys belonging to such district, as the same shall be drawn by the commissioners of common schools from the town treasury, so far as such moneys shall be sufficient for that purpose; and to collect the residue of such wages, excepting such sums as may have been collected by the teacher, from all persons liable therefor;

8th. To divide the public moneys received by them whenever authorized by a vote of their district, into not exceeding four portions for each year; to assess and apply one of such portions to each quarter or term during which a school shall be kept in such district, for the teacher's wages during such quarter or term, and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided;

9th. To exempt from the payment of the wages of teachers such indigent persons within the district as they shall think proper;

10th. To certify such exemptions and deliver the certificate thereof to the clerk of the district, to be kept on file in his office;

11. To ascertain by examination of the school lists kept by such teachers, the number of days for which each person, not so exempted, shall be liable to pay for instruction, and the amount paid by each person ;

12th. To make out a rate bill, containing the name of each person so liable, and the amount for which he is liable, adding thereto five cents on each dollar of the sum due from him for collector's fees, and to annex thereto a warrant for the collection thereof ;

13th. To deliver such rate bill, with the warrant annexed, to the collector of the district, who shall execute the same in like manner with other warrants directed to him by them.

Exemptions  
from taxes.

§17. Every taxable inhabitant of a district, who shall have been within four years, set off from any other district, by the commissioners of common schools, without his consent, and shall within that period actually have paid such district, under a lawful assessment therein, a district tax for building a school house, shall be exempted by the trustees of the district where he shall reside, from the payment of any tax for building a school house therein.

Time of ma-  
king tax list.

§18. Every district tax shall be assessed, and the tax list thereof be made out by the trustees, within one month after the meeting in which such tax shall have been voted.

Tenants not li-  
able to tax for  
school house.

§19. No person, who occupies any real property as a tenant, for any period not exceeding three years, shall be liable to any tax for the purchasing or building of any school house, unless some agreement to the contrary may have been made by such tenant.

Warrant of  
trustees to dis-  
trict collector.

§20. The warrant annexed to any tax list shall be under the hands of the trustees, or a majority of them, and shall command the collector to collect from every person, and from all property taxed in such tax list, the sum therein assessed ; and in case any tax upon any property in the district shall not be paid, so as to enable the collector to make his return within the time specified in his warrant, then such collector shall return the same to the trustees, specifying the sums unpaid, and paying over to the trustees all sums by him so collected.

Same to collec-  
tor of town and  
his duty.

§21. It shall thereupon be the duty of the trustees to issue their warrant, commanding the collector of the town to collect the balance of such taxes so remaining unpaid, and the collector shall proceed to collect the same in the same manner as town taxes are

by law collected; and the said warrant of the trustees shall give him all the powers and authority for collecting the same which is conferred upon him by a precept from the town clerk.

§22. The town collector shall be liable upon his official bonds, for any failure to collect and pay over such balance to the trustees of such district, in the same manner as is provided for him to collect and pay over town taxes to the town treasurer. Liability of collector of town.

§23. The trustees of each school district shall, before the first day of October, annually, make out and transmit to the town clerk's office, for the use of the school commissioners, a statement, Annual statement of trustees.

1st. The number of scholars, male and female, in their district, between the age of four and the age of sixteen, inclusive;

2d. The number of teachers employed, male and female;

3d. The amount of wages paid to each;

4th. The length of time which schools have been kept; stating what portion of the time by male, and what by female teachers.

§24. No person shall be deemed a qualified teacher, within the meaning of the law, who shall not have received, and shall not then hold, a certificate of qualification, dated within one year, from the commissioners of common schools for the town in which he shall be employed. Who not to be deemed qualified teachers.

§25. Where a district is formed out of two or more adjoining towns, it shall be the duty of the trustees to make returns, as provided by the 23d section of the 8th chapter of this Act, to the clerk of both or all of the towns of which such district is composed; and where any neighborhood is set off by itself, or associated with any district out of this Territory, if no such trustees of such neighborhood or district reside within the same, the legal voters thereof shall choose one or more trustees, whose duty it shall be to make returns as aforesaid. Districts formed from several towns—how to report.

§26. The trustees of each school district shall, on the expiration of their offices, render to their successors in office, a just account, in writing, of all moneys received by them, respectively, for the use of their district, and of the manner in which the same shall have been expended; which account shall be filed with the clerk. Trustees to account to their successors.

§27. Any balance of such moneys, which shall appear from such account to remain in the hands of the trustees, or either of Balance paid to successor.

them, at the time of rendering the account, shall immediately be paid to some one of their successors in office.

**Forfeiture for neglect.**

§28. Every trustee, who shall refuse or neglect to render such an account, or to pay over any balance so found in his hands, shall, for each offence, forfeit the sum of not less than double the amount remaining in his hands.

**Forfeiture how prosecuted for.**

§29. And it shall be the duty of such successors in office to prosecute such offenders without delay, in their name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by them to the use and benefit of such district.

**Collector to give bond.**

§30. Every collector of a school district shall, before receiving any warrant for the collection of moneys, execute a bond to the trustees of his district, when required by them, in their corporate name, with one or more sureties, to be approved by the trustees, in double the amount of taxes to be collected, conditioned for the due and faithful execution of the duties of his office.

**How to proceed in case of neglect.**

§31. If any collector shall not execute such bond within the time allowed him by the trustees for that purpose, which shall not be less than ten days, his office shall be vacated, and the trustees may appoint any other person residing within the district, to be collector in his place.

**Forfeiture for neglect.**

§32. If by the neglect of the collector, any moneys shall be lost to his district, which might have been collected within the time limited in the warrant delivered to him for his collection, he shall forfeit to his district the full amount of the moneys thus lost, and shall account for and pay over the same to the trustees of his district, in the same manner as if they had been collected.

**When trustees may sue.**

§33. For the recovery of all forfeitures, and of balances in the hands of a collector, which he shall have neglected to pay over, the trustees of the district may sue in their name of office, and shall be entitled to recover the same with interest and cost; and the moneys recovered shall be applied by them in the same manner as if paid without suit.

**Appeals to school commissioners.**

§34. Any person conceiving himself aggrieved in consequence of any decision made or any act done—

1st. By any school district meeting;

2d. By the trustees of any district; or the refusal of such trustees to do any act, or perform any duty required by law,

may appeal to the commissioners of common schools of the town, whose decision shall be final.

§35. When a new district shall be formed from one or more districts possessed of a school house, and in cases where any district from which such new district shall be in whole or in part formed, shall be entitled to other property than its school house, then the commissioners of common schools at the time of forming such new district, shall ascertain and determine the amount justly due to such new district from any district out of which it may have been in whole or in part formed, as the proportion of such new district, of the value of the school house and other property belonging to the former district at the time of such division.

In alteration of district, how school house, &c., disposed of.

§36. Such proportion shall be ascertained according to the taxable property of the inhabitants of the respective parts of such former district, at the time of building such house and acquiring such property, by the best evidence in the power of the commissioners, and deduction shall be made therein for any debts due the former district.

Proportion how ascertained.

§37. Such proportion, when ascertained, shall be levied, raised and collected, with the fees for collection, by the trustees of the district, retaining the school house or other property of the former district, upon the taxable inhabitants of their district, in the same manner as if the same had been authorized by a vote of their district, for the building of a school house; and when collected, shall be paid to the trustees of the district, to be applied by them towards procuring a new school house for their district; and the moneys so paid to the new district shall be allowed to the credit of those who were taxed to build such house or acquire such property, in liquidation or reduction of any tax that may be imposed for erecting a school house.

How levied and applied.

## CHAPTER IX.

### OF THE ASSESSMENT AND COLLECTION OF TAXES.

#### PART 1st.

#### *Of the property liable to taxation.*

§1. All such real and personal property as is now, or may be hereafter made taxable property by any law of this Territory, shall be considered taxable property for all town and school district

What property considered taxable.



purposes; and all such property as is or shall be hereafter exempted from taxation, shall be exempted from taxation in all town assessments.

## PART 2d.

### *Of the place in which property is to be assessed.*

**Land where taxed.** §1. Every person shall be assessed in the town or ward in which he resides when the assessment is made, for all lands then owned by him, within such town or ward, whether occupied or not.

**Same.** §2. Land owned by a person residing in the town or ward where the same is situated, but occupied by another person, may be assessed in the name of the owner or occupant.

**How when divided by town line.** §3. When the line between two townships or wards divides a farm or lot, the same shall be taxed, if occupied, in the town or ward where he resides; if there shall be no occupant upon such farm, each part shall be assessed in the town in which the same shall lie; and this, whether such division be a town line only, or be also a county line.

**Property of corporations and non-residents.** §4. All non resident lands, and all lands belonging to incorporated companies, shall be assessed in the town or ward in which the same shall lie, in the same manner as the real estate of residents or of individuals. All personal estate belonging to individuals, or of any incorporated company, liable to taxation on its capital, shall be assessed in the town or ward where the operations of such company are carried on, or where such individual resides.

## PART 3d.

### *Of the manner in which assessments are to be made, and the duties of assessors.*

**Assessment districts.** §1. The assessors chosen in each town or ward may divide the same by mutual agreement, into convenient assessment districts, not exceeding the number of assessors in such town or ward.

**Inquiry to be made.** §2. Between the first day of May and the first day of June, of each year, they shall proceed to ascertain, by diligent inquiry, the names of all the taxable inhabitants in their respective towns or wards, and also all the taxable property, real or personal, within

the same, held or owned by such person on the first day of May.

§3. They shall prepare an assessment roll, in which they shall set down, in separate columns, and according to the best information in their power—

Assessment roll.

1st. The names of all the taxable inhabitants in the town or ward, as the case may be ;

2d. The description of the lands or lots subject to tax ;

3d. The number of acres and parts of acres ;

4th. The value of such lands ; and

5th. The amount of personal estate liable to taxation.

§4. Where a person is assessed as trustee, guardian, executor or administrator, he shall be assessed as such, with the addition to his name of his representative character ; and such assessment shall be carried out in a separate line from his individual assessment ; and he shall be assessed for the value of the real estate held by him, in such representative character, at the full value thereof, and for the personal property held by him in such representative character, deducting from such personal property the just debts due from him in such representative character.

Trustees, guardians, &c.

§5. The lands of non-residents shall be designated in the same assessment roll, but in a part thereof separate from the other assessment, and in the manner prescribed as follows :

Lands of non-residents.

1st. In the first column the name of such non-resident, if known ;

2d. The description of the lands or lots taxed ;

3d. The number of acres ; and

4th. The value.

§6. If any person, whose real or personal estate is liable to taxation, shall, at any time before the assessors shall have completed their assessment, make affidavit that the value of his real estate does not exceed a certain sum named in his affidavit ; or that the value of his personal estate, and liable to taxation, after deducting his just debts, does not exceed in value the sum or sums stated in his affidavit, it shall be the duty of the assessors to value all such estate at the sums specified in such affidavit, and no more.

Affidavit of value of property.

The same provision shall also apply to any trustees, guardians, Ib. by trustee

executors or administrators, in relation to property held by them in such capacity.

Rule of valuation.

§7. All real and personal estate liable to taxation, the value of which shall not have been specified by the affidavit of the person taxed, shall be estimated by the assessors at its full and fair value.

Roll when to be completed.

§8. The assessors shall complete the assessment roll of their towns on or before the first day of June, in every year; and shall then forthwith cause notice thereof to be put up at three or more public places in their town or wards.

Notice.

Contents of notice.

§9. Such notices shall set forth that the assessors have completed their assessment rolls, and that a copy thereof is left with one of their number, to be designated in the notice, at some place to be specified therein, where the same may be seen and examined by any of the inhabitants of the town or ward, during twenty days; and that the assessors will meet on such a day and in such a place, (naming them,) to review their assessments, on the application of any person conceiving himself aggrieved.

Inspection of roll.

§10. The assessors with whom such assessment roll is left, shall submit the same, during the twenty days specified in such notice, to the inspection of all persons who shall apply for that purpose.

Assessors to meet and review assm'ts.

§11. The assessors shall meet at the time and place specified in the notice, and make all such alteration in the assessment roll as shall be shown to be reasonable by any person conceiving himself to be aggrieved by their assessment; but in all cases, the assessors may require such person or agent, to make affidavit of the facts in relation to his assessment, if they deem it necessary.

Affidavit before whom made.

§12. The affidavit specified in this chapter shall be made before the assessors, or one of them, either of whom is hereby authorized to administer an oath for that purpose; and the assessors shall cause all such affidavits to be filed in the office of the town clerk.

Certificate to assessor's roll.

§13. After having corrected the assessment roll as herein provided, the assessors shall sign the same, and shall attach thereto a certificate in the following form, which shall also be signed by them, viz :

"We do severally certify that the foregoing assessment roll

comprises all the real and personal estate, liable to taxation by law, situated in the town of \_\_\_\_\_ according to the best of our information and belief, and that with the exception of those cases in which the real estate has been sworn to by the owners or possessors thereof, we have appraised the same under our oaths as assessors, according to law."

§14. The roll thus certified, shall, on or before the first day of July, in each year, be delivered to the chairman of the board of supervisors, who shall deliver the same to the county board at their annual meeting. Roll to be delivered.

§15. If any assessor shall wilfully refuse or neglect to perform any of the duties required of him by this chapter, he shall forfeit to the use of the town one hundred dollars; and the duties of such delinquent assessor shall be performed by the other assessors or either of them. Penalty for neglect of duty.

#### PART 4th.

#### *Of the equalization of the assessment, and the correction of the assessment rolls.*

§1. The board of supervisors of each county in this Territory, at their annual meeting, shall examine the assessment rolls of the several towns in their county, for the purpose of ascertaining whether the valuations in one town or ward bear a just relation to the valuation in all the towns and wards in the county; and they may increase or diminish the aggregate valuations of real estate in any town or ward, by adding or deducting such sum upon the hundred, as may, in their opinion, be necessary to produce a just relation between all the valuations of real estate in the county; but they shall, in no instance, reduce the aggregate valuations of all the towns and wards below the aggregate valuation thereof, as made by the assessors. County supervisors to examine assessment roll.

§2. After thus equalizing the assessments of the different towns in the county, the county board of supervisors shall cause the corrected assessment roll of each town or ward, or a copy thereof, to be delivered to the supervisors of the town to which the Corrected assessment roll, transferred to town clerk.

same belongs, and to be by him transmitted to the clerk of the town, together with a certificate or statement of such town's proportion of the county expenses; requiring said clerk to include the same with the amount of the town taxes for collection, and the amount of the county tax so committed shall be charged as a county debt against the treasurer of such town.

Town clerk to  
make tax list.

§3. It shall be the duty of the town clerk, on the reception of the corrected assessment roll and the amount of county tax to be paid by his town, forthwith to calculate and carry out the amount of taxes, including town and county taxes, in an additional column for that purpose, prepared in the assessment roll, opposite to the several sums set down as the valuation of real and personal estate.

Duplicate with  
warrant given  
to collector.

§4. Immediately after completing such assessment roll, the town clerk shall make out a duplicate or transcript of the same, together with a precept in the name of the Territory, under his hand and seal, directed to the collector of the town, commanding him to collect the taxes charged in such transcript, by demanding payment of the persons charged therein, if within his town, and making sale of their goods and chattels, according to law; and the town clerk shall in like manner require of the collector to pay over to the county and town treasurers the amount by him so collected, at such times and in such sums as shall be expressed therein, according to law; and to make return of such transcript and precept, with his doings thereon, to the town clerk, on or before the first day of December next following.

Amount of du-  
plicate filed  
with treasurer.

§5. Within ten days after committing such transcript to the collector, the clerk shall forward a statement of the amount thus committed for collection to the treasurer of the town, setting forth the several amounts of taxes to be collected, and stating that the same has been committed to the collector with his precept for collection; and shall also charge the same, in a book to be kept for that purpose, to such collector.

## CHAPTER X.

OF THE COLLECTION OF TAXES, THE DISPOSITION TO BE MADE OF THE MONEYS COLLECTED, AND THE PROCEEDINGS IN RELATION TO UNPAID TAXES.

## PART 2d.

*Of the manner in which taxes are to be collected, and the duties of the collector.*

§1. Every collector, upon receiving the transcript and precept of the town clerk, shall proceed to collect the taxes therein mentioned; and for that purpose, shall call at least once on the person taxed, or at the place of his residence, if in the town or ward in which such collector has been chosen, and shall demand payment of the taxes charged to said person on his property. Collector to call for taxes.

§2. In case the person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the goods and chattels of the person who ought to pay the same. Proceedings in case of refusal to pay.

§3. The collector shall give public notice of the time and place of sale, and of the property to be sold, at least six days previous to the time of sale, by advertisement, to be posted up in at least three public places in the town where such sale shall be made: the sale shall be by public auction. Sale, &c.

§4. If the property distrained shall be sold for more than the amount of the tax and cost, the surplus shall be returned to the person from whom the property was taken. Excess of sale returned.

§5. In cases of assessment of taxes in gross, upon any tract or lot of land, the collector shall, upon application of any part claimant thereof, whether his interest be divided or undivided, receive a part of the tax, interest, and charges due thereon, proportionate to the part of such lot or tract so owned or claimed; and the balance of such taxes, interest and charges, shall be a lien only on the balance of such lot or tract of land. Lands owned jointly.

§5. If no goods or chattels can be found, out of which to make the taxes charged upon any lands or town lots, the collector shall, on or before the first day of December, in each year, return his transcript roll, together with the precept and his doings thereon, to the town clerk's office. The collector's return shall specify: Returns of collector when made, & what to specify.

1st. The amount of all taxes by him so collected ;

2d. The description of all lands on which the taxes are unpaid, and the name of the owner thereof, if known ;

3d. He shall file in the town clerk's office a verification, under oath, that he has made diligent inquiry in his town as the law requires, but has not been able to find goods and chattels liable to be taken for the payment of the taxes so returned, or any part thereof, sufficient to cancel the same.

**Lands when  
not assessed, or  
doubly asses'd.**

§7. When any collector discovers that any tract of land or town lot has been assessed more than once for the same year, he shall credit only the taxes really due, and make returns of the balance as an illegal assessment, and describe the land or lot so doubly or illegally assessed, to the town clerk ; and, provided the same shall appear correct, the clerk shall certify the same to the treasurer as an illegal assessment, to be credited to such collector by the town treasurer.

**Person injured  
by collector to  
recover dam-  
ages.**

§8. If any individual shall be injured by the false return of any collector made to any precept under the provisions of this act, or other illegal or fraudulent act of such collector, such individual, upon suit to be brought against such collector and his securities upon their bond for his use, shall recover double damages and full costs and charges.

**Return of tran-  
script and pre-  
cept.**

§9. Upon the return of the transcript and precept as aforesaid, by the collector, the town clerk shall examine the same, and if all the returns required by law shall be found correct, he shall grant the collector a certificate of the amount of all taxes thus returned to the clerk's office as uncollected, and also the amount of all that shall be returned as illegal assessments, to enable the collector to settle his account with the town treasurer.

**Certificate of  
delinquent  
lands, when  
made.**

§10. Having received and approved the collector's return as aforesaid, the town clerk shall, before the first day of January, of every year, make out and forward to the county treasurer, a certificate, under his hand, describing the delinquent lands and town lots, and the taxes thereon ; certifying that such taxes were raised by a vote of a legal town meeting—assessed by assessors duly chosen and qualified, and were committed to the collector for collection and returned according to law ; and the town clerk shall also forward along with such certificate an attested copy of the collector's affidavit, as aforesaid.

§11. If any collector shall die, or become unable, from bodily infirmity or other cause, to perform the duties of his office, the board of supervisors of such town shall forthwith appoint a collector in the place of the one deceased or infirm, as before provided, who shall take the oath of office, and enter into such bonds and sureties as are provided by law; and the said collector shall forthwith demand and receive from the person in whose possession the same may be, the precept and duplicate of the assessment rolls as aforesaid, and shall immediately proceed to complete the collections, as commanded by said precept; and such collector shall be liable, under the provisions of this act, for the amount of the assessed taxes of his town, after deducting those which appear from the memorandum of the deceased, or the statements of the infirm collector, to have been collected: and the executors, administrators, heirs, devisees and securities of the deceased or infirm collector, shall be liable, under the provisions of this act, for the amount of taxes collected by them severally, unless the same be paid over as provided by law in relation to the collector. And any person injured by the neglect of a deceased or infirm collector to enter credits for taxes paid on the transcripts aforesaid, shall have redress by action on such collector's bond, for the damages thereby sustained; and if any person charged with the taxes on the transcript of the deceased or infirm collector, (no evidence being furnished to the successor of the payment thereof, by or on the part of such collector, deceased or infirm) be able to produce a receipt for such taxes, paid such prior collector, the successor aforesaid shall not be charged therewith, but shall take up such receipt, giving his own in lieu thereof, and return the same, with said receipt, and the amount thereof shall be recoverable as before provided: *Provided, however,* That this section shall not be construed so as to prohibit any collector, who may be disabled by bodily infirmity, from appointing deputies under the provisions of this act, hereinafter provided.

Proceedings if collector die, &c.—another appointed.

§12. County orders, regularly drawn upon the county treasurer, shall be received in payment of all taxes except school taxes.

County orders how received.

§13. On or before the second Monday of December, in each year, it shall be the duty of the collector of every town to pay over the amount of all taxes collected by him, to the county or

When to pay treasurer and't collected.



town treasurer, to whom the same may belong ; and if there shall be any deficiency in the amount thereof due to the town treasurer, other than what shall be shown by the clerk's certificate of delinquent taxes and illegal assessments, and the legal fees due to such collector, the treasurer shall forthwith collect the same by suit upon such collector's bonds, with twenty per centum damages and costs of suit. And if any collector shall fail to pay over to any county treasurer any amount of taxes due such county, for more than two weeks after the second Monday of December, annually, the county treasurer may also sue for and collect the same, with like damages and costs of suit.

Treasurer to  
sue for neglect.

Fees allowed  
collector.

§14. Each collector shall be entitled to the following fees for his services, viz : five dollars for every one hundred dollars of tax by him collected, and in the same proportion for less sums, to be credited to him in his settlement with the treasurer ; five per centum commission where goods are distrained, and taxes, commission and charges paid before sale, and eight per centum commission on sales of distress, and charges for keeping property distrained, together with the tax and charges out of the money received therefrom.

Treasurer's  
book and col-  
lector's bond  
evidence.

§15. Upon the trial of any suit against any collector, the treasurer's book, if properly sworn to by such treasurer, and the collector's bond, shall be conclusive evidence against such collector and his sureties ; nor shall such collector, or his sureties, be permitted to set off, or allege, in payment of such demand, by payment or claim of credit, unless the same shall have been presented to the supervisors of the town, and be allowed or rejected by them.

Judgments  
against col'ct'r.

§16. If any collector shall fail to return the precept and duplicate to the clerk, or shall fail to make payment of the sums collected, as heretofore directed, or shall make a false return thereto, the judgments, upon the determination of the suits, which may be brought by the county or town treasurer, as the case may be, against such collector or his securities, shall be for the full amount of the taxes required by the receipt of the town clerk, to be paid to them, or either of them, to whom the same shall of right

belong, together with damages, commission, costs and charges, as herein before provided,

§17. It shall be the duty of the collectors of all towns in such counties as are organized for county purposes only, to pay over annually to the treasurer of the county to which such county shall be attached for judicial purposes, such per centum of the amount of taxes, or such specific sum as is, or shall be required by law from such town; and the receipt of such treasurer shall be received by the treasurer of the town in payment of the amount of taxes due such town.

Moneys to be paid by certain counties to other counties.

§18. Any collector of taxes, in any town, may appoint as many deputies as he may think proper, who shall be sworn, and possess the same power and authority as his principal, such collector being at all times responsible for the acts of his deputies. And should any deputy fail to pay any money collected by him, as such, such principal is hereby authorized to proceed against him in the same summary manner as is provided for proceeding against collectors in like cases, and recover the same damages.

Collector may appoint deputies.

§19. After the clerks shall have forwarded the returns of unpaid taxes, and other papers, as required by the 10th section of this chapter, the county treasurer shall give notice, in some newspaper published in his county, if there be one so published; if not, then in some newspaper published at the seat of government: also, by posting up three written notices at the most public places in such county, for at least four weeks preceding the second Tuesday in April, annually, notifying all whom it may concern, that he will, on the second Tuesday next ensuing such notice, commence selling at some one of the most public places in the county, (describing the same) all and singular, the lands and town lots in such county, on which the taxes due for the year or years (namely, the year or years for which he is authorized to collect) shall not have been paid prior to the sale; and that such sale will be continued from day to day, between the hours of nine o'clock in the forenoon and four o'clock in the afternoon of each day, until all shall be offered for sale; and it is hereby made the duty of the county treasurer to describe in one of his written notices,

Lands sold for taxes how advertised and when sold.

which one shall be posted up at the office of the clerk of the board of county supervisors, each tract of land or town lot intended to be sold as aforesaid.

Time of sale,  
and manner of  
conducting the  
same.

§20. In pursuance of such notice, the county treasurer shall proceed, on the said second Tuesday of April, to expose to sale each and every tract of land and town lot on which the taxes are not paid, by the description and number by which they are designated on the duplicate, for the taxes and costs of advertising and selling the same; or he may expose to sale so much of said tract of land or lots as will sell for the amount due and chargeable thereon. Such treasurer shall declare at the time of sale, in what manner the division of a lot or tract of land shall be made, if a part thereof will pay the tax and other charges; and he shall continue, from day to day, between the said hours, to expose the said lots and lands to sale to the highest bidder, until all shall be duly offered.

Treasurer to  
give purchaser  
certificate.

§21. When any lots or tracts of land, or parts thereof, shall be sold for the non-payment of the taxes and costs, and charges thereon, the county treasurer shall give to the purchasers a certificate in writing, describing the same with specific certainty, the sum paid therefor, and the time when the purchaser will be entitled to a deed for such lot or tract, or part thereof; which certificate shall be assignable and transferrable by endorsement upon the same; and such assignments shall have the same force and effect as the assignment of other bonds for the conveyance of lands;

Certificate as-  
signable.

Forfeiture if  
not redeemed  
in two years.

and if the owner or claimant of the lot or tract of land described in such certificate, shall not, within two years from the date thereof, pay to the purchaser, his heirs or assigns, or to the clerk of the board of supervisors of the county in which such tract of land or lot was situated, for the use of such purchaser, his heirs or assigns, the sums mentioned in such certificate, with interest thereon, at the rate of thirty percent per annum, together with such other taxes, costs and charges upon the lot or tract of land, as may have accrued under the laws of this Territory, or been paid by such purchaser, his heirs or assigns, vouchers of such payment being deposited with such clerk, or produced to such owner or claimant,

then the said clerk of the board of supervisors, or his successor in office, at the time such deed is demanded, shall, at the expiration of said two years, execute to the said purchaser, his heirs or assigns, in the name of the Territory of Wisconsin, a conveyance of the lot or tract of land so sold as aforesaid, and described in said certificate; which conveyance shall vest in the person to whom it is given, an absolute estate, in fee simple, subject to the claims of the town for all taxes, costs and charges, if any accrued, and remaining unpaid upon such lot or tract of land, after such sale as aforesaid. And such conveyance shall be *prima facie* evidence that such sale was regular, according to the provisions of this act; and every such conveyance, executed by the clerk of the board of supervisors, and duly acknowledged before any officer authorized to take acknowledgments of deeds, may be recorded, and have like force and effect as other conveyances when acknowledged and recorded.

§22. Idiots, feme coverts and insane persons, who are owners of claimants of lands or lots sold under the provisions of this act, may redeem such lands or lots at any time, not exceeding five years after the sale thereof, in the same manner that is provided for in other cases. Lands of idiots, feme coverts, &c. when redeemed.

§23. Whenever the lands of minors shall be sold for taxes, the same shall be redeemable when such minor becomes of age, and one year thereafter. Lands of minors when redeemed.

§24. Any person who may wish to redeem any lands which may have been sold for taxes, shall pay to the clerk of the board of county supervisors, for a certificate of redemption for a single lot, twenty-five cents, and five cents for every additional lot or tract described in such certificate. Fees of clerk for certificate.

§25. No sale of land for taxes, nor deed made in pursuance thereof, shall be deemed of any validity, if the taxes for which the same is sold shall have been paid prior to such sale. Taxes paid prior to sale.

§26. Taxes are hereby made a lien on the lands or the town lots on which they may be due, in whosoever hands such lands or town lots may come. And when any land or town lot is offered for sale for any such taxes, it shall not be necessary that Taxes a lien on lands.

the same shall be sold as the property of any particular individual, where such owner's name is unknown; and if it shall be sold as the property of any particular person, no misnomer of the owner, or supposed owner, or other mistake respecting the ownership of said land or lot, shall ever, in any way, affect the sale, or render it void or voidable, provided the land or lot is accurately described and sold according to law.

Property may  
be released be-  
fore sale.

§27. At any time before the sale of goods and chattels, or lands and lots, under the provisions of this act, the owner or claimant may release the same by the payment of the taxes, interest and charges, for which the same are liable to seizure and sale; and if at any time, within two years after the payment of a tax, the person who has paid the same, can satisfy the board of town supervisors that such tax was improperly assessed, or paid by mistake, when it was not legally chargeable, the said board shall order the same to be repaid by their draft upon the town treasurer.

Supervisors to  
refund in case.

Treasurer may  
sue for pur-  
chase money.

§28. In cases where goods and chattels, lots or lands, are sold under the provisions of this act, unless the purchaser shall, within such time as may be allowed by the town collector, or county treasurer, whichever makes such sale, pay the purchase money, such treasurer, or town collector, may, at his discretion, again expose the property to sale, or sue such person for the amount of the purchase money, and recover the same with costs and ten per cent damages.

Second sale  
when allowed.

§29. If the treasurer of any county shall at any time unavoidably fail to offer for sale the delinquent land or town lots committed to him for sale as aforesaid, or may have offered them for sale, and the purchaser thereof shall fail or refuse to pay such treasurer the amount due thereon, it shall be the duty of such treasurer to again advertise and sell such lands, or lots, on the first Monday in June, next ensuing; and such advertising and sale shall in all things be governed by the provisions of this act, and be as legal and valid, to all intents and purposes, as such sales would have been had they been made on the second Tuesday in April.

## CHAPTER XI.

## OF HIGHWAYS, BRIDGES AND FERRIES.

## PART 1st.

*Of the officers entrusted with the care and superintendence of highways and bridges, and their general powers and duties.*

§1. The commissioners of highways in the several towns in this territory shall have the care and superintendence of the highways and bridges therein; and it shall be their duty—  
Commissioners —their duties.

1st. To give directions for the repairing of the roads and bridges within their respective towns;

2d. To regulate the roads already laid out, and to alter such of them as they or a majority of them shall deem inconvenient;

3d. To cause such of the roads used as highways, as shall have been laid out, but not sufficiently described, and such as shall have been used twenty years, but not recorded, to be ascertained, described, and entered of record in the town clerk's office;

4th. To cause the highways and the bridges, which are or may be erected over streams intersecting highways, to be kept in repair;

5th. To divide their respective towns into so many road districts as they shall judge convenient, by writing, under their hands, to be lodged with the town clerk, and by him to be entered in the town book; such division to be made annually, if they shall think it necessary, and in all cases to be made at least ten days before the annual town meeting;

6th. To assign to each of the said road districts such of the inhabitants, liable to work on highways, as they shall think proper, having regard to the proximity of residence as much as may be; and

7th. To require the overseers of highways, from time to time, and as often as they shall deem necessary, to warn all persons assessed to work on highways, to come and work thereon, with such implements, carriages, cattle or sleds, as the said commissioners, or any one of them, shall direct.

§2. The commissioners of highways shall have power, in the manner, and under the restrictions hereinafter provided, to lay  
Laying out roads, &c.

out, on actual survey, such new roads in their respective towns, as they may deem necessary and proper, and to discontinue such old roads and highways as shall appear to them, on the oaths of six free holders of the same town, to have become unnecessary.

To account.

§3. The commissioners of highways of each town, shall render to the board of town supervisors, at their annual meeting for auditing the accounts of town officers, an account in writing, stating—

1st. The labor assessed and performed in such town ;

2d. The sums received by such commissioners, for fines and commutations, and other monies received under this chapter ;

3d. The improvements which have been made on the roads and bridges in their town during the year immediately preceding such report, and an account of the state of such roads and bridges.

Annual statement of commissioners.

§4. The commissioners of highways of each town shall, at the annual town meeting, make a statement of the improvements necessary to be made on the roads and bridges, together with the probable expense thereof.

Overseers—their duty.

§5. It shall be the duty of the overseers of highways in each town :

1st. To repair and keep in order the highways within the several districts for which they shall have been elected ;

2d. When so required by the commissioners of highways, or any one of them, to warn all persons assessed to work on the highways in their respective districts, to come and work thereon ;

3d. To collect all fines and commutation money, and to execute all lawful orders of the commissioners.

New assessments to be made by them.

§6. When the quantity of labor assessed on the inhabitants of any road district, by the commissioners, shall be deemed insufficient, by the overseers of such district, to keep the roads therein in repair, it shall be the further duty of such overseer to make another assessment on the actual residents in such district, in the same proportion, as near as may be, and not exceeding one-third of the number of days assessed in the same year, by the commissioners, on the inhabitants of such district ; and the labor, so assessed by an overseer, shall be performed, or commuted for, in like manner as if the same had been assessed by the commissioners of highways.

Guide-posts.

§7. The commissioners of highways of each town shall cause

guide posts, with proper inscriptions and devices, to be erected at the intersection of all the post roads in their town, and at the intersection of such other roads as they may deem necessary.

§8. It shall be the duty of the overseers of highways of each town to maintain and keep in repair, at the expense of the town, such guide posts as may have been erected by order of the commissioners within the limits of the district for which they shall have been respectively elected or appointed.

§9. The commissioners of highways, whenever they shall think it necessary or useful, may direct or empower any overseer of highways in their respective towns, to procure a good and sufficient iron or steel shod scraper and plough, or either of them, for the use of his road district; to be paid for by the moneys arising from commutations and fines within such district.

Scrapers and ploughs to be procured.

§10. In case such moneys are insufficient for the purpose, the deficiency shall be assessed by the overseers upon the inhabitants and property of the districts in the proportion they are respectively assessed on the assessment roll of said town; and if any one so assessed shall neglect or refuse to pay such assessment, the same may be sued for and recovered by the overseer.

Money raised for same.

§11. If any overseer shall be employed more days in executing the several duties enjoined on him by this chapter, than he is assessed to work on the highway, he shall be paid for the excess at the rate of one dollar and fifty cents per day, and be allowed to retain the same out of the moneys that may come into his hands for fines, under this chapter; but he shall not be permitted to commute for the days he is assessed.

Excess of work of overseer.

§12. If any person chosen to the office of overseer of highways, shall refuse to serve, or if his office shall become vacant, the commissioners of highways of the town shall, by warrant under their hands, appoint some other person in his stead; and the overseer so appointed shall have the same powers, be subject to the same orders, and liable to the same penalties, as overseers chosen in town meeting.

Vacancy in office, how filled.

§13. The commissioners making the appointment shall cause such warrant to be forthwith filed in the office of the town clerk, who shall give notice to the person appointed, as in other cases.

Proceedings, where filed.

§14. Every overseer of highways who shall refuse or neglect, either—

Penalties.



1st. To warn the people assessed to work on the highways, when he shall have been required so to do by the commissioners, or either of them ;

2d. To collect the moneys that may arise from fines or commutations ; or,

3d. To perform any of the duties required by this chapter, or which may be enjoined on him by the commissioners of highways of his town, and for the omission of which a penalty is not herein provided ;

shall, for every such refusal or neglect, forfeit the sum of ten dollars, to be sued for by the commissioners of highways of the town ; and when recovered, to be applied by them in making and improving the roads and bridges in the district in which he resides.

To be prosecuted for by commissioners.

§15. It shall be the duty of the commissioners of highways of each town, whenever any person resident in their town shall make complaint that any overseer of highways in such town has refused or neglected to perform any of the duties enumerated in the last preceding section, and shall give, or offer to such commissioners, sufficient security to indemnify them against the costs which may be incurred in prosecuting for the penalty annexed to such refusal or neglect, forthwith to prosecute such overseer for the offence complained of.

Penalty for neglect.

§16. If such commissioners of highways shall refuse or neglect to prosecute for such penalty, they shall, in every such case, forfeit the sum of ten dollars, to be recovered by the person who shall have made such complaint, and given or offered such security.

## PART 2d.

*Of persons liable to work on highways and the making assessments thereof.*

Persons liable to be assessed.

§17. Every person owning or occupying land in the town in which he or she resides, and every male inhabitant, above the age of twenty-one years, residing in the town where the assessment is made, shall be assessed to work on the public highways in such town ; and the lands of non-residents, situated in such town, shall be assessed for highway labor, as hereinafter directed.

Meetings of commissioners.

§18. The commissioners of highways of each town shall meet within eighteen days after they shall be chosen at the place of town

meeting, on such day as they shall agree upon, and afterwards at such other times and places as they shall think proper.

§19. Each of the overseers of highways shall deliver to the clerk of the town, within sixteen days after his election or appointment, a list, subscribed by such overseer, of the names of all the inhabitants in his road district, who are liable to work on the highways. List of inhabitants.

§20. The town clerk shall deliver the lists filed by the overseers, to the commissioners of highways of the town, who shall proceed at their next meeting, or at some subsequent meeting, to ascertain, estimate and assess the highway labor to be performed in their town the then ensuing year. Delivered to commissioners.

§21. In making such estimate and assessment, the commissioners shall proceed as follows : Proceedings in making estimate.

The whole number of days work to be assessed in each year shall be ascertained, and shall be at least double the number of taxable inhabitants in such town ;

Every male inhabitant being above the age of twenty-one years, excepting paupers, idiots and lunatics, shall be assessed at least two days ;

The residue of such tax shall be apportioned upon the taxable property, real and personal, as may be authorized by law, as the same shall appear by the last assessment roll of the town or county ;

The commissioners shall affix to the name of each person named in the list furnished by the overseers, and also to the description of each tract or parcel of land contained in the list prepared by them of both residents and non-resident lands, as the case may be, the amount of tax for which each tract or parcel may be assessed for highway tax, as herein directed, and the commissioners shall subscribe the said lists and file them with the town clerk.

§22. The commissioners shall direct the clerk of the town to make a copy of each list, and shall subscribe such copies, after which they shall cause the several copies to be delivered to the Copies of lists.

respective overseers of highways of the several districts in which the highway labor is assessed.

Names omitted, &c.

§23. The names of persons left out of any such list, and of new inhabitants, shall from time to time be added to the several lists, and they shall be rated by the overseers in proportion to their taxable property, to work on the highways as others rated by the commissioners on such lists, subject to an appeal to the commissioners.

Certain assessments to be reported.

§24. Whenever the commissioners of highways shall assess the occupant for any land not owned by such occupant, they shall distinguish in their assessment lists the amount charged upon such land from the personal tax, if any, of the occupant thereof; but when any such land shall be assessed in the name of the occupant, the owner thereof shall not be assessed during the same year to work on the highways on account of the same land.

Tenant to deduct assessment.

§25. When any tenant for any land for a less term than twenty-five years, shall be assessed to work on the highways for such land, pursuant to the last preceding section, and shall actually perform such work, or commute thereof, he shall be entitled to a deduction from the rent due or to become due from him for such land equal to the full amount of such assessment, estimating the same at the rate of one dollar and fifty cents per day, unless otherwise provided for by covenant or agreement between such tenant and his landlord.

### PART 3d.

*Of the duties of overseers in regard to the performance of labor upon highways, and of the performance of such labor, or the commutation therefor.*

Notice of work when to be done.

§1. It shall be the duty of the overseers of highways to give at least twenty-four hours notice to all persons assessed to work on the highways, and residing within the limits of their respective districts, of the time and place, when and where they are to appear for that purpose, and with what implements: but no person, being a resident of the town, shall be required to work on any highway.

other than in the district in which he resides, unless he shall elect to work in some district where he has lived; and in such case he may, with the approbation of the commissioners of highways, apply the work assessed in respect to such land, in the district in which the same is situated.

§2. It shall be the duty of the several overseers of highways to notify the agent of every non-resident land holder, whose lands are assessed, (if such agent resides in the town where such assessment is made) of the number of days such non-resident is assessed, and of the time when and the place where the labor is to be performed; which notice shall be given at least five days previous to the time appointed. Notice to non-residents.

§3. If the overseer cannot ascertain that such non-resident has an agent within such town, he shall affix a written notice on the outer door of the building in which the last town meeting in such town was held, containing a list of the names of such non-residents, when known, and a description of the tracts of land comprised in his list, together with the number of days labor assessed on each tract, and a specification of the time when and the place where such labor is to be performed; which notice shall be posted at least twenty days before the time appointed for performing such labor. Same.

§4. Every person liable to work on the highways, shall work the whole number of days for which he shall have been assessed; but every such person, other than an overseer, may elect to commute for the same, or for some part thereof, at the rate of one dollar and twenty-five cents for each day; in which case such commutation money shall be paid to the overseers of highways of the district in which the person commuting shall reside, to be applied and expended by such overseer in the improvement of the roads and bridges in the same district. Commutations for work.

§5. Every person intending to commute for his assessment, or for any part thereof, shall, with twenty-four hours after he shall be notified to appear and work on the highways, pay the commutation money for the work required of him by such notice; and When to be paid.

the commutation shall not be considered as complete until such money be paid.

**Teams, &c.**

§6. Every overseer of highways shall have power to require a team, or a cart, wagon, or plough, with a pair of horses or oxen, and a man to manage them, from any person having the same within his district, who shall have been assessed three days or more, and who shall not have commuted for his assessment; and the person furnishing the same upon such requisition, shall be entitled to a credit of three days for each days service therewith.

**Substitutes—  
hours to work.**

§7. Every person assessed to work on the highways, and warned to work, may appear in person, or by an able bodied man as a substitute; and the person or substitute so appearing, shall actually work eight hours in each day, under the penalty of twenty-five cents for every hour such person or substitute shall be in default, to be imposed as a fine on the persons assessed.

**Penalty for ne-  
glect, &c.**

§8. If any such person or his substitute shall, after appearing, remain idle, or not work faithfully, or hinder others from working, such offender shall, for every offence, forfeit the sum of two dollars.

**Penalty for not  
appearing.**

§9. Every person so assessed and duly notified, who shall not commute, and who shall refuse or neglect to appear as above provided, shall forfeit for every day's refusal or neglect, the sum of two dollars. If he was required to furnish a team, carriage, man or implements, and shall refuse or neglect to comply, he shall be fined as follows:

1st. For wholly omitting to comply with such requisitions, five dollars for each day;

2d. For omitting to furnish a cart, wagon or plough, two dollars for each day;

3d. For omitting to furnish a pair of horses or oxen, two dollars for each day;

4th. For omitting to furnish a man to manage the team, two dollars for each day.

**Complaints  
how made.**

§10. It shall be the duty of every overseer of highways, within six days after any person so assessed and notified, shall be guilty of any refusal or neglect, for which neglect a penalty or fine is

prescribed in this chapter, unless a satisfactory excuse shall be rendered to him for such refusal or neglect, to make complaint on oath, to one of the justices of the peace of the town.

§11. The justice to whom such complaint shall be made, shall forthwith issue a summons directed to any constable of the county, requiring him to summons such delinquent to appear forthwith before such justice, at some place to be specified in the summons, to show cause why he should not be fined, according to law, for such refusal or neglect, which summons shall be served personally, or by leaving a copy at his usual place of abode. Proceedings on said complaint.

§12. If, upon the return of such summons, no sufficient cause shall be shown to the contrary, the justice shall impose such fine as is provided in this chapter for the offence complained of, and shall forthwith issue a warrant, under his hand and seal, directed to any constable of the county where such delinquent shall reside, commanding him to levy such fine, with the costs of the proceedings, on the goods and chattels of such delinquent. Same.

§13. The constable to whom such warrant shall be directed, shall forthwith collect the moneys therein mentioned. He shall pay the fine, when collected, to the justice who issued the warrant, who is hereby required to pay the same to the overseer who entered the complaint, to be by him expended in improving the roads and bridges in the district of which he is overseer. Same.

§14. Every penalty collected for a refusal or neglect to appear and work on the highways, shall be set off against the assessment upon which it was founded, estimating every two dollars collected as a satisfaction for one day's work. Penalties to be set off.

§15. The acceptance by an overseer of any excuse for refusal or neglect, shall not in any case exempt the person excused from commuting for, or working the whole number of days for which he shall have been assessed during the year. Excuses.

§16. Every overseer of highways shall, on or before the first day of October, in each year, make out and deliver to the supervisor of his town, a list of the lands of non-residents, and of persons unknown, which were taxed on his lists, on which the labor assessed by the commissioners of highways has not been paid, and the Proceedings to collect non-resident labor unpaid.

amount of labor unpaid ; and the said overseer, previous to delivering such list, shall make and subscribe an affidavit thereon, before some justice of the peace of such county, that he has given the notice required by this chapter, and that the labor for which such land is returned has not been performed.

Proceedings in  
same case.

§17. If any overseer shall refuse or neglect to deliver such list to the supervisor, as provided in the last preceding section, or shall refuse or neglect to make the affidavit as therein directed, he shall, for every such offence, forfeit the sum of five dollars, and also the amount of tax or taxes for labor remaining unpaid, at the rate of one dollar and twenty-five cents for each day, to be recovered by the commissioners of highways of the town, and to be applied by them in making and improving the roads and bridges in such town.

Same.

§18. It shall be the duty of the supervisors of the several towns to receive the lists of the overseers of highways, when delivered pursuant to the preceding sixteenth section, and to lay the same before the board of supervisors of the county.

Same.

§19. It shall be the duty of such board at their next annual meeting to cause the amount of such arrearages of labor (estimating a day's labor at one dollar and twenty-five cents) to be levied on the lands so returned, and to be collected in the same manner that the contingent charges of the county are levied and collected, and to order the same, when collected, to be paid over to the commissioners of highways of the town, to be by them applied to the construction and improvement of the roads and bridges in the district for whose benefit the labor was originally assessed.

Annual return  
of overseer.

§20. Every overseer of highways shall, on or before the first day of April, annually, render to one of the commissioners of highways of the town, an account, in writing, verified by his oath, and containing—

1st. The names of all persons assessed to work on the highways in the district of which he is overseer ;

2d. The names of all those who have actually worked on the highways, with the number of days they have so worked ;

3d. The names of all those who have been fined, and the sums in which they have been fined ;

4th. The names of all those who have commuted, and the manner in which the moneys arising from fines and commutation have been expended by him ;

5th. A list of all lands which he has returned to the supervisor for non-payment of taxes, and the amount of tax on each tract of land so returned.

§21. Every such overseer shall also then and there pay to the commissioners all moneys remaining in his hands unexpended, to be applied by the commissioners in making and improving the roads and bridges in the town, in such manner as they shall direct. To pay over moneys.

§22. If any overseer shall refuse or neglect to render such account, or, if having rendered the same, he shall refuse or neglect to pay any balance which may then be due from him, he shall, for every such offence, forfeit the sum of five dollars, to be recovered, with the balance of moneys remaining in his hands, by the commissioners of highways of the town, and to be applied in making and improving the roads and bridges. It shall be the duty of the commissioners of highways to prosecute for such penalty in every instance in which no return is made. Penalty for neglect, how collected.

#### PART 4th.

#### *The laying out of public and private roads, and of the alteration or discontinuance thereof.*

§1. Every person liable to be assessed for highway labor, may apply to the commissioners of highways of the town in which he shall reside, to alter or discontinue any road, or to lay out any new road. Every such application shall be in writing, addressed to the commissioners and signed by the person applying. Who may apply.

§2. Whenever the commissioners of highways shall lay out, alter or discontinue any road, either upon application or otherwise, they shall cause a survey to be made of such road, and shall incorporate such survey in an order to be signed by them, and to be filed and recorded in the office of the town clerk, who shall note the time of recording the same. Survey.



Order for laying out where posted.

§3. It shall be the duty of the town clerk, whenever any order of the commissioners for laying out, altering or discontinuing a road shall be received by him, to post a copy of such order on the door of the house where the town meeting is usually held; and the time hereinafter limited for appealing from any such order, shall be computed from the time of recording the same.

Consent of owner of land when necessary.

§4. No public or private road shall be laid out through any orchard or garden without the consent of the owner thereof, if such orchard be of the growth of two years or more, or if such have been cultivated for two years or more, before the laying out of such road. Nor shall any such road be laid out through any buildings, or any fixtures or erections for the purposes of trade or manufactures, or any yards or enclosures necessary to the use and enjoyment thereof, without the consent of the owners.

Oath of freeholders when necessary.

§5. No highway shall be laid out through enclosed, improved or cultivated lands, without the consent of the owner or occupant thereof, unless certified to be necessary by the oath of twelve reputable freeholders of the town, in the manner hereinafter provided.

Notice of application to be posted up, &c.

§6. Every person who shall apply for the laying out of a highway through any land, shall cause notice in writing to be posted up at three of the most public places of the town, specifying, as near as may be, the route of the proposed highway, the several tracts of land through which the same is proposed to be laid, and the time and place at which the freeholders will meet to examine the ground. Every such notice shall be posted up at least six days before the time specified therein for the meeting of the freeholders.

Proceedings.

§7. If six reputable freeholders of the town, not interested in the lands through which the road is to be laid, nor of kin to the owner thereof, shall appear at the time and place specified in the notice, they shall then be sworn by any officer authorized to administer oaths, well and truly to examine and certify in regard to the necessity and propriety of the highway applied for.

Same.

§8. They shall then personally examine the route of such highway, and shall hear any reasons that may be offered for or against laying out of the same. If they shall be of opinion that such highway is necessary and proper, they shall make and subscribe a

certificate in writing to that effect, which shall be delivered to the commissioners of highways of the town.

§9. Before the commissioners shall determine to lay out the highway so applied for and certified, they shall cause notice in writing to be given to the occupant of the land through which the road is to run, of the time and place at which they will meet to decide on the application. The notice shall be served by delivering the same to such occupant, or, if he be absent, by leaving the same at his dwelling house; and, in either case, at least three days before the time of meeting.

Notice to occupant of land.

§10. The commissioners shall meet at the time specified in the notice, and shall hear any reasons for or against that may be offered for laying out the highway. If they shall determine to lay out such highway, they shall make out and subscribe a certificate of such determination, describing the road so laid out, particularly by metes and bounds, and by its courses and distances, and shall deposit the same with the town clerk.

Description of road.

§11. The damages sustained by reason of the laying out and opening such road, may be ascertained by the agreement of the owner and the commissioners of highways, provided such damages do not exceed twenty-five dollars; and unless such agreement be made, or the owner of the land shall in writing release all claim to damages, the same shall be assessed in the manner prescribed in the next section, before such road shall be opened, or worked, or used. Every such agreement and release shall be filed in the town clerk's office, and shall forever preclude such owner from all further claim for such damages.

Damages how ascertained by agreement.

Road opened unless.

§12. On the application of the commissioners of highways, or the owner of the land through which such road is laid out, to any two justices of the peace of the county, they shall issue their warrant to some constable of the same county, neither interested nor of kin to any person interested in the land through which the road is laid, directing him to summons six disinterested freeholders, residing in some other town than that in which such road is laid out, and not of kin to the owner of such land, to assess the damages sustained by the laying out such road; and shall therein specify the time and place at which the jury shall meet.

Damages how assessed by a judge.

§13. Upon such freeholders appearing, the justices who issued the warrant shall draw, by lot, four of the names of the persons

Proceedings.

attending to serve as a jury; and the first four persons drawn, who shall be free from all legal exception, shall be the jury to assess the said damages.

Same. §14. In all cases of the assessment of such damages, the persons by whom the assessment is to be made, shall view and examine the premises; and before making their determination, the freeholders making the same shall be sworn well and truly to determine and assess such damages.

Same. §15. The verdict of the jury assessing such damages, shall be received and certified by the two justices who issued the warrant for summoning them, and shall be delivered by them to the commissioners of the highways of the town.

Same. §16. Such commissioners shall cause a copy of the said warrant, with a statement of the charges and expenses, to be delivered to the supervisor of the town, who shall lay the same before the board of supervisors of the county. The board shall have power to examine into the principles on which such assessment shall have been made, and into the fairness and justice thereof, and to increase or reduce the damages, as in their judgment shall be just and reasonable.

Damages and expenses how collected. §17. The amount of damages, as finally settled by the board of supervisors, or as liquidated by the commissioners of highways, as hereinbefore provided, together with the charges of the commissioners of highways, justices, surveyors, and other persons or officers employed in making the assessments, shall be levied and collected within the town within which the highway shall be situated. The moneys so collected shall be paid to the commissioners of highways of the same town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges.

Damages in certain cases how collected. §18. When any person shall be the owner of any land over which any highway shall run, and such highway shall be discontinued, in whole or in part, by reason of some other road to be established and laid out under this chapter, through the land of the same person, the persons who shall assess the damages shall take into calculation the value of the road so discontinued, and the benefit resulting to such person by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out such new road; and thereupon the owner

of the land may enclose so much of the highway so discontinued as shall belong to him.

§19. When the commissioners of highways of any town shall disagree with the commissioners of any other town in the same county, relating to the laying out of a new road, or the alteration of an old road, extending into both towns; or when the commissioners of a town in one county relative to laying out a new road, or altering an old road, which shall extend into both counties, the commissioners of both towns shall meet together, at the request of either disagreeing commissioners, and make their determination upon such subject of disagreement.

Disagreements respecting certain roads.

§20. Whenever it shall become necessary to have a highway upon the line between two towns, such highway shall be laid out by ~~town~~ <sup>two or more</sup> of the commissioners of highways of each of said towns, either upon such line, or as near thereto as the convenience of the ground will admit; and they may so vary the same either to the one or the other side of such line, as they may think proper.

Road upon line of two towns.

§21. It shall be the duty of the same commissioners, when they lay out such highway, to divide it into two or more districts, in such manner that the labor and expense of opening, working, and keeping in repair such highway, through each of the said districts, may be equal as near as may be, and to allot an equal number of the said districts to each of the said towns.

How divided into districts.

§22. Each district shall be considered as wholly belonging to the town to which it shall be allotted, for the purpose of opening and improving the road, and for keeping it in repair; and the commissioners shall cause such highway, and the partition and allotment thereof, to be recorded in the office of the town clerk in each of their respective towns.

Effect of allotment.

§23. All highways heretofore laid out upon the line between any two towns shall be divided, recorded and kept in repair, in the manner above directed.

Former roads.

§24. Whenever application shall be made to the commissioners of highways of any town for a private road, they shall summons twelve disinterested freeholders of the town where the land through

Private roads how laid out.

which such road is proposed to be laid out, is situated, to meet on a day certain; of which day, notice shall be given to the owner or occupant of such land. Such freeholders, when met, shall be sworn, as above provided, and shall then proceed to view the lands through which said road is applied for.

**Proceedings.** §25. If they shall determine that such road is necessary, they shall make and subscribe a certificate in manner as aforesaid, and the commissioners shall thereupon lay out the road, and cause a record thereof to be made in the town clerk's office. The damages of the owner of the land through which such road shall be laid out, shall be ascertained or assessed in like manner as if the same was a public highway, and such damages shall be paid by the person applying for the road.

**For what purpose road to be used.** §26. Every such private road, when so laid out, shall be for the use of such applicant, his heirs and assigns; but not to be converted to any other use or purpose than that of a road. Nor shall the occupant or owner of the land through which such road shall be laid out, be permitted to use the same as a road, unless he shall have signified his intention of so making use of the same, to the jury or commissioners who ascertained the damages sustained by laying out such road, and before such damages were so ascertained.

**Width of rds.** §27. All public roads to be laid out by the commissioners of highways of any town, shall not be less than three rods wide; and all private roads shall not be more than three rods wide.

**Old roads, how discontinued.** §28. Whenever application shall be made for the discontinuance of an old road, on the ground that it has become useless and unnecessary, the commissioners of highways, to whom such application shall be made, shall summon twelve disinterested freeholders of the town to meet on a day certain, to consider such application. Such freeholders, when met, shall be sworn well and truly to examine and certify in regard to the propriety of such discontinuance.

**Same.** §29. They shall then proceed to view such road, and if they shall be of opinion that the same is useless and unnecessary, they shall make and subscribe a certificate in writing to that effect,

which shall be delivered to the commissioners of highways, who shall thereupon proceed to decide upon such application.

§80. All applications, certificates and other papers relating to the laying out, altering or discontinuing of any road, shall be filed by the commissioners of highways, as soon as they shall have decided thereon, in the office of the town clerk of the town. Papers where filed.

#### PART 5th.

##### *Regulations concerning the obstruction of highways.*

§1. Whoever shall obstruct any highway, or shall fill up or place any obstruction in any ditch constructed for draining the water from any highway, shall forfeit for every such offence the sum of five dollars. Penalty for obstructing.

§2. In every case where a highway shall have been laid out, and the same has been or shall be encroached upon by fences created by any occupant of the land through or by which such highway runs, the commissioners of highways of the town shall, if in their opinion it be deemed necessary, order such fences to be removed, so that such highway may be of the breadth originally intended. The commissioners making the order shall cause the same to be reduced to writing and signed. They shall also give notice in writing to the occupant of the land, to remove such fences within sixty days. Every such order and notice shall specify the breadth of the road originally intended, the extent of the encroachment, and the place or places in which the same shall be. Fences when and how to be removed.

§3. If such removal shall not be made within sixty days after the service of such notice, the occupant to whom the notice shall be given, shall forfeit the sum of fifty cents for every day after the expiration of that time for which such fences shall continue unremoved. Penalty.

§4. If the occupant, to whom notice is given, shall deny such encroachment, the commissioners, or some one of them, shall apply to any justice of the peace of the county for a precept, directed to any constable of the county, to summon six freeholders thereof, to meet at a certain day and place to be specified in such Proceedings if encroachments be denied.

precept, and not less than four days after the issuing thereof, to inquire into the premises. The constable to whom such precept shall be directed, shall give at least three days notice to the commissioners of highways of the town, and to the occupant of the land, of the time and place at which such freeholders are to meet.

Same.

§5. On the day specified in the precept, the jury so summoned shall be sworn by such justice, well and truly to inquire whether any such encroachment has been made, and by whom. Such witnesses as may be produced by either party, shall also be sworn by such justice; and the jury shall hear the proofs and allegations which may be produced and submitted.

Verdict how enforced.

§6. If the jury find that any encroachment has been made, they shall make and subscribe a certificate in writing, stating the particulars of such encroachment, and by whom made; which shall be filed in the office of the town clerk. The occupant of the land, whether such encroachments shall have been made by him or by any former occupant, shall remove his fences within sixty days after the filing of such certificate, under the penalty provided in the third section of this part. He shall also pay the costs of such inquiry; and if the same shall not be paid within ten days, the justice shall issue a warrant for the collection thereof, in the manner hereinbefore provided.

Same.

§7. If the jury find that no encroachment has been made, they shall so certify, and also ascertain and certify the damages which the then occupant shall have sustained by such proceedings; which, together with the costs thereof, shall be paid by the commissioners, and shall be a charge in their favor against the town by which they shall have been elected.

## PART 6th.

### Bridges.

When bridges at expense of county.

§1. Whenever it shall appear to the board of supervisors of any county, that any one of the towns in such county would be unreasonably burthened by erecting or repairing any bridge or bridges in such town, such board of supervisors shall cause such sum of money to be raised and levied upon the county, as will be sufficient to defray the expenses of erecting or repairing such bridge or bridges, or such part of such expenses as they may deem

proper; and such moneys when collected shall be paid to the commissioners of highways of the town in which the same are to be expended.

§2. No board of supervisors shall, under the last preceding Limitation. section, cause any sum exceeding one thousand dollars to be levied and raised on any county in any one year.

§3. The commissioners of highways of each town, may put Notice of fine, up and maintain in conspicuous places at each end of any bridge &c. in such town, maintained at the public charge, and the length of whose chord is not less than twenty-five feet, a notice with the following words in large characters: "One dollar fine for riding or driving on this bridge faster than a walk."

§4. Whoever shall ride or drive faster than on a walk over Penalty: any bridge upon which such notice shall have been placed, and shall then be, shall forfeit for every such offence the sum of one dollar.

§5. Whoever shall injure any bridge maintained at the public Injury to brid- charge, shall, for every offence, forfeit treble damages. ges.

## PART 7th.

### Miscellaneous provisions.

§1. Any two commissioners of highways of any town may Two commis- make any order, in execution of the powers conferred in this sion's can act. chapter; provided it shall appear in the order filed by them, that all the commissioners of highways of the town met and deliberated on the subject embraced in such order, or were duly notified to attend a meeting of the commissioners, for the purpose of deliberating thereon.

§2. All trees standing or lying on any land over which any Trees on high- highway shall be laid out, shall be for the proper use of the owner ways—to whom on or part of such land, except such of them as may be requisite they belong. to make or repair the highways or bridges on the same land.

§3. Any person owning land adjoining any highway not less Trees may be than three rods wide, may plant or set out trees on the side of planted by side of highways. such highway, contiguous to his land; which trees shall be set in regular rows, at a distance of at least six feet from each other.— Whoever shall cut down, destroy or injure, any tree that has been



or shall be so planted or set out, shall be liable in damages to the owner of such adjoining land.

Penalties for  
injuring mile  
boards.

§4. Whoever shall destroy, remove, injure or deface, any mile-board or mile-stone erected on any highway, shall forfeit, for every offence, the sum of ten dollars; he shall also be deemed guilty of a misdemeanor, and, on conviction, shall be fined not exceeding fifty dollars, or [punished by] imprisonment not exceeding three months, at the discretion of the court.

Same, as to  
guide-posts.

§5. Whoever shall injure or deface any description affixed to a guide-post erected on a highway, or destroy or injure any such guide-post, shall be liable to all the penalties provided in the last preceding section.

Injuries to r'ds.

§6. Whoever shall injure any highway, by obstructing or diverting any creek, water-course or sluice, or by drawing logs or timber on the surface of any road, bridge, or by any other act, shall, for every such offence, forfeit treble damages.

Penalties how  
recovered.

§7. All penalties or forfeitures given in this chapter, and not otherwise specially provided for, shall be recovered by the commissioners of highways of the town in which the offence shall be committed; and when recovered shall be applied by them in improving the roads and bridges in such town.

Fences when  
required to be  
moved.

§8. No person shall be required to remove any fence under the preceding provisions of this chapter, except between the first day of April and the first day of November, in each year.

Fallen trees to  
be removed.

§9. If any tree shall fall, or be fallen by any person, from any enclosed land into any highway, any person may give notice to the occupant of the land from which such tree shall have fallen to remove the same within two days. If such tree shall not be removed within that time, but shall continue in such highway, the occupant of the land shall forfeit the sum of fifty cents for every day thereafter until such tree shall be removed.

Penalty for fall-  
ing trees into  
highways.

§10. In case any person shall cut down any tree on land not occupied by him, so that it shall fall into any highway, river or stream, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant the sum of one dollar for every tree so fallen, and the like sum for every day the same shall remain in such highway, river or stream.

Same for not  
removing &c.

§11. Whoever shall cut or cause to be cut down, any tree, so that the same shall fall into any river or stream, which now is,

or hereafter shall be, declared a public highway, and shall not remove the same out of such river or stream, within twenty-four hours thereafter, shall forfeit five dollars for every such tree cut down and left remaining.

§12. No swinging or other gates shall be allowed on any Gates. public highway laid out by virtue of this chapter, or which has heretofore been laid out, other than such public highways as run through lands liable to be overflowed by the waters of the adjacent ~~river or streams~~, in such manner as to remove the fences thereon.

§13. Such gates shall be erected and kept in good repair by the overseers of highways of the town at the proper costs and charges of the occupant of the land for whose benefit the same shall be erected. How erected and preserv'd.

§14. If more than one gate shall be erected, and the intermediate land between the gates, at the extremities of such lands, shall be in the occupation of more than one person benefited by such gates, the whole charge of erecting and keeping the same in repair, shall be borne by all the occupants benefited thereby, in proportion to the extent of land each occupies adjoining the highway, between the gates at the extremities aforesaid. Expense.

§15. The overseers of every road district in which such gates shall be, shall, on or before the first day of November of every year, make out and file with the town clerk, a statement of the charges incurred in the erection or repairing of such gates, with the name of the person bound to defray the same; which account shall be verified by the oath of the overseer. If more than one person is liable to defray such charges, the statement shall also contain an apportionment thereof between such persons, stating the amount to be paid by each. Proceedings to collect charges.

§16. The overseer shall, within ten days after filing the statement, demand of every person bound to pay such charges, or to contribute thereto, the sum due from him according to such statement; and if any person shall refuse or neglect to pay such moneys within six days after demand, it shall be the duty of the overseer to make complaint to a justice of the peace of the county, and the like proceedings shall be had for the recovery of such moneys as in the recovery of fines for refusing or neglecting to work on the highways. Same.

§17. The commissioners of highways shall file an account of Gates, &c.

**Penalty.**

such gates in the town clerk's office; and if any person shall open any such gate, and shall not, immediately after having passed the same, close it, or shall wilfully or unnecessarily ride over any of the grounds adjoining the road on which such gates shall be permitted, he shall forfeit to the party injured treble damages.

**CHAPTER XII.****OF THE POWERS, DUTIES AND PRIVILEGES OF COUNTIES, AND OF COUNTY OFFICERS.****PART 1st.**

*Of the powers and rights of counties as bodies corporate, and the effects of a division of a county on its corporate rights and liabilities.*

**General powers.**

§1. Every county now organized, or which may hereafter be organized, within this Territory, shall be a body corporate for all purposes prescribed by law; and shall have capacity—

1st. To sue and be sued, defend and be defended, as the law prescribes;

2d. To purchase and hold lands within its own limits, and for the use of its inhabitants; subject to the power of the legislature over such limits;

3d. To make contracts, and to purchase and hold such personal property as may be necessary to the exercise of its corporate or administrative powers; and

4th. To make such orders for the disposition, regulation or use of its corporate property, as may be deemed conducive to the interests of its inhabitants.

**Counties organized for judicial purposes.**

§2. Counties organized for county purposes only, shall be subject to such restrictions as are or shall be prescribed by their organic acts; and shall be subject to all the provisions of this act, so far as they shall be applicable to such counties. At the annual meeting of the board of supervisors of such counties, they shall order the respective towns composing such county to pay over to the treasurer of the county to which such county is attached for

judicial purposes, such per centum of their taxes as is required by law; and it shall be the especial duty of the collector of such towns to collect and pay over such sums, annually, before the first day of January. And if any town or collector shall neglect to comply with this provision, such collector shall be liable to an action for the recovery of the same, with double costs.

§3. No county shall possess or exercise any corporate powers, Limitation of powers. except such as are enumerated in this chapter; or shall be specially given by law; or shall be necessary to the exercise of the powers so enumerated or given.

§4. All acts and proceedings by or against a county, in its corporate capacity, shall be in the name of the board of supervisors In what name to act. of such county; but every conveyance of lands within the limits of such county, made in any manner for the use and benefit of its inhabitants, shall have the same effect as if made to the board of supervisors.

§5. The powers of a county, as a body politic, can only be exercised by the board of supervisors thereof, or in pursuance of a resolution by them adopted. Powers how exercised.

§6. When a county seized of lands shall be divided into two or more counties, or shall be altered in its limits, by the annexing of a part of its territory to another county or counties, each county shall become seized to its own use of such part of said lands as shall be included within its limits, as settled by such division or alteration. County lands.

§7. When a county possessed of, or entitled to, money, rights, and credits, or other personal property, is so divided or altered, Personal property. such property shall be apportioned between the counties interested therein, by the supervisors and county treasurers thereof, as to them, or a majority of them, shall appear to be just and equitable. They shall meet for that purpose, at such time as shall be prescribed by the law making such division or alteration.

§8. Debts owing by a county so divided or altered, shall be apportioned in the manner prescribed in the preceding section; and each county shall thereafter be charged therewith, according to such apportionment. Debts.

## PART 2d.

*Of the board of supervisors.*

**Annual & special meetings.** §1. The chairman of the board of supervisors of each town of every county in this Territory shall meet, annually, in their respective counties, for the despatch of business as a board of county supervisors. They may also hold special meetings, at such times and places as they may find necessary; and shall have power to adjourn from time to time, as the business of their respective counties may require.

**Quorum.** §2. A representation from a majority of the towns in any one county, shall constitute a quorum for the discharge of business.

**Annual meeting when and where held.** §3. The annual meeting of the board of county supervisors shall be held on the first Tuesday of September, in each year, at the court-house of the respective counties, or such other place as may be appointed by law for the meeting of the boards of county commissioners.

**General powers of supervisors.** §4. The board of supervisors of each county in the Territory, shall have power at their annual meetings, or at any other meeting thereof, duly notified—

1st. To make such orders concerning the corporate property of the county as they may deem expedient;

2d. To examine, settle and allow, all accounts chargeable against such county, and to direct the raising of such sums as may be necessary to defray the same;

3d. To build and keep in repair county buildings, and to raise money for the same: *Provided*, it shall be concurred in by a vote of two thirds of the board of supervisors; and

4th. To perform all other duties that may be required of them by any law of this Territory.

**Majority to decide.** §4. All questions which shall arise at their meetings, shall be determined by the votes of a majority of the supervisors present.

**Meetings.** §5. The boards of supervisors of each county shall set with open doors; and all persons conducting in an orderly manner may attend their meetings.

**Chairman.** §6. They shall, at each annual meeting, choose one of their

number as chairman, who shall preside at such meeting, and in all other meetings held by such board during the year. In case of his absence at any meeting, the members present shall choose one of their number as a temporary chairman.

§8. Every chairman shall have power to administer an oath May administer oath. to any person, concerning any matter submitted to the board, or connected with their powers or duties.

§9. Every board of supervisors shall, as often as may be necessary, appoint some proper person to be their clerk, and who Clerk to be appointed. may be removed from such office for sufficient cause, at their pleasure; and whose general duties shall be—

1st. To record in a book to be provided for the purpose, all the proceedings of the board;

2d. To make regular entries of all their resolutions or decisions on all questions concerning the raising or payment of moneys, or any other proceedings of the board;

3d. To record the vote of each supervisor on any question submitted to the board, if required by any member present; and,

4th. To preserve and file all accounts acted upon by the board.

§10. The clerk shall receive a reasonable compensation for Compensation of clerk. his services, to be fixed by the board of supervisors, and to be paid by the county, and such fees as shall be established by law.

§11. The books, records and accounts of the boards of supervisors, and the former boards of county commissioners, shall Where books, &c. deposited. be deposited with their [the] clerk, and shall be open without reward, to the examination of all persons.

§12. It shall be the duty of the clerk to designate upon every Accounts to be filed. account upon which any sum shall be audited and allowed by the board, the amount so audited and allowed; and he shall also deliver to any person who may demand it, a certified copy of any record or any account or file in his office, on receiving from such person twelve and a half cents for every folio of one hundred words contained in such copy.

§13. It shall also be the duty of the clerk of the board of supervisors, in each county, to do and perform all the duties now Further duties of clerk.

required of the clerk of the board of county commissioners, in relation to the redemption of any lands or lots sold for taxes, by the county treasurer, to grant deeds for the same, and to do and perform any other duty that would have devolved upon such clerk, in the same manner as such clerk could have done the same by law. And the clerk of the board of supervisors shall be entitled to the same fees as are provided for the clerks of the boards of county commissioners in such cases.

**Pay of supervisors.**

§14. Each member of the board of county supervisors shall be allowed a compensation for his services and expenses in attending the meetings of the board, at the rate of two dollars per day, and six cents per mile travel, in going and returning to and from the place of meeting, for any distance over six miles.

**Penalty for neglect of duty.**

§15. If any supervisor shall refuse or neglect to perform any of the duties which are or shall be required of him by law, as a member of the county board of supervisors, he shall, for every such offence, forfeit the sum of two hundred dollars.

**Further duties of supervisors.**

§16. The boards of county supervisors are hereby authorized and required to do and perform all acts and things required by law to be done and performed by the boards of county commissioners; and the present official seals of the several boards of county commissioners are hereby declared to be the official seal of the several boards of supervisors of the several counties in this Territory, which are or may be subject to the provisions of this act.

**Their seals.**

### PART 3d.

#### *Of the county treasurer.*

**Treasurer elected annually.**

§1. There shall be elected annually, at the time and place of holding general elections, a suitable person, being a resident of the county, to be the county treasurer.

**His bond.**

§2. Every person so chosen to the office of county treasurer, before he enters on the duties of his office, shall give a bond to the supervisors of the county, with two or more sufficient sureties, to be approved of by the board of supervisors, and in such sum as they shall direct, conditioned that such person shall faithfully execute the duties of his office; and shall pay according to law all moneys which shall come into his hands as treasurer, and render

a just and true account thereof to the board of supervisors when thereunto required.

§3. Such bond, with the approbation of the board of supervisors endorsed thereon by their clerk, shall be filed in the office of the clerk of such board. How endorsed and filed.

§4. It shall be the duties of the county treasurer to receive all moneys belonging to the county, from whatever source they may be derived, and to pay and apply such moneys in the manner required by law. Duties of treasurer.

§5. The county treasurer shall do and perform all duties required of him in the collection of taxes and the sale of tax lands, and make returns of all such sales by him made, to the clerk of the board of county supervisors, in the same manner that county collectors are now required to return to the clerks of the boards of county commissioners; and the treasurer shall keep a just and true account of the proceedings of all such sales, and account for the same to the several towns to which the same may belong, and any refusal to pay over such money to the treasurer of such town, or to his order, shall be deemed a breach of his official bonds. How to collect taxes, &c. and make returns.

§6. The county treasurer shall keep a just and true account of the receipts and expenditures of all moneys which shall come to his hands, by virtue of his office, in a book or books to be kept for that purpose; which books shall be provided at the expense of the county. Accounts.

§7. At the annual meeting of the board of supervisors, or at such other time as they shall direct, the county treasurer shall exhibit to them all his books and accounts, and vouchers relating to the same, to be audited and approved. Exhibit same to supervisors.

§8. Upon the death, resignation or removal from office of any county treasurer, all the books and papers belonging to his office, and all moneys in his hands, by virtue of his office, shall be delivered to his successor in office, upon the oath of the preceding county treasurer; or in case of his death, upon the oath of his executors or administrators. Books, moneys &c. to be delivered to successor.

§9. If any such preceding county treasurer, or in case of his death, if his executors or administrators shall refuse or neglect to deliver such books, papers and moneys, upon oath, when lawfully demanded, every such person shall forfeit for the use of the county one thousand dollars. Penalty for neglect.



Commission of  
treasurer.

§10. The county treasurer shall be entitled to retain a commission of two per cent on all moneys he shall receive and pay, to-wit: one-half of such commission for receiving, and the other half for paying; *Provided, however,* for moneys received on sales for taxes, he shall receive only such commissions and fees as are provided in chapter 10 of this act; and also that said treasurer shall not receive more than twelve and a half cents for every certificate of the sale of every lot or tract of land for taxes.

Supervisors  
may remove  
the treasurer.

§11. The board of supervisors shall at all times have power to remove such treasurer for good and sufficient cause, and if necessary, from any violation thereof, to put his bonds in suit; and after having made such removal, they shall have power to appoint a successor until the next annual election.

Approved, February 18th, 1841.





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